Special Session SPS

Milwaukie City Council

CITY OF MILWAUKIE

COUNCIL SPECIAL SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

AGENDA

JULY 8, 2025

Council will hold this meeting in-person and by video conference. The public may come to City Hall, join the Zoom webinar, or watch on the city's YouTube channel or Comcast Cable channel 30 in city limits. **For Zoom login** visit https://www.milwaukieoregon.gov/citycouncil/city-council-special-session.

Written comments may be delivered to City Hall or emailed to ocr@milwaukieoregon.gov.

Note: agenda item times are estimates and are subject to change. **Page #**

1. CALL TO ORDER (4:00 p.m.)

A. Pledge of Allegiance

B. Native Lands Acknowledgment

2. ANNOUNCEMENTS (4:01 p.m.)

3. PROCLAMATIONS AND AWARDS

A. None Scheduled.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS (4:05 p.m.)

To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed at the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to ocr@milwaukieoregon.gov), or in person to city staff.**

6. CONSENT AGENDA (4:10 p.m.)

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

A. Approval of Council Meeting Minutes of: **2**

1. **May 13, 2025, study session,**
2. **May 20, 2025, work session,**
3. **May 20, 2025, regular session.**

B. Approval of On-Call Construction Inspection Contracts – Resolution **11**

7. BUSINESS ITEMS

A. New City Website – Report (4:15 p.m.) **15**

Staff: Jordan Imlah, Communication Program Manager

B. Council Goal Update: Economic Development – Report (4:30 p.m.) **17**

Staff: Joseph Briglio, Assistant City Manager, and
Ciara Williams, Economic Development Coordinator

DINNER BREAK (6:00 p.m.)

7. BUSINESS ITEMS (continued)

C. American Rivers' Update on the Kellogg Dam Removal Project – Report (6:30 p.m.)
Presenters: Joseph Briglio, Assistant City Manager, and
April McEwan, American Rivers Project Manager

D. Annexation of 5706 SE Westfork Street – Ordinance (7:00 p.m.) **22**
Staff: Brett Kelver, Senior Planner

8. PUBLIC HEARINGS

A. Natural Resource Code Update – Ordinance, continued (7:10 p.m.) **49**
Staff: Brett Kelver, Senior Planner

9. COUNCIL REPORTS (7:45 p.m.)

10. ADJOURNMENT (8:00 p.m.)

Executive Session.
After the special session Council will meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660 (2)(e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice
The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)
La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

Executive Sessions
The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.

SPS Agenda Item 2

Announcements

Native Lands Acknowledgment

The City of Milwaukie respectfully acknowledges that our community is located on the ancestral homeland of the Clackamas people. In 1855, the surviving members of the Clackamas signed the Willamette Valley Treaty also known as the Kalapuya etc. Treaty with the federal government in good faith. We offer our respect and gratitude to the indigenous people of this land.

Mayor's Announcements – July 8, 2025

- **Transportation System Plan Update – Project Survey Open Through July 15**
  - Milwaukie is updating its 20-year guide for improving its transportation system
  - Review and comment on the list of priority projects and maps
  - Take the survey on Engage Milwaukie at **engage.milwaukieoregon.gov**

- **Porchfest – Friday July 11, 18, & 25 (6:30 – 8:30 PM)**
  - Milwaukie Arts Committee hosts another year of Porchfest!
  - Community is invited to create music from their homes or walk/bike around to enjoy the performances.
  - For details, including a map of performance locations, visit **milwaukieporchfest.com**.

- **Milwaukie Fest – Fri., Jul. 11 to Sun., Jul. 13**
  - Fri., Jul. 11 (7:30 p.m. – 9:30 p.m.) – Live music, food, crafts, and a screening of Minions 4
    - Ardenwald Park (8950 SE 36th Ave.)
  - Sat., Jul. 12 (10 a.m. – 5 p.m.) – Biggest festival day of the year in downtown!
    - Kids' activities, live professional wrestling, community groups, Jazzercise, and so much more!
  - Sun., Jul. 13 (9:30 a.m. – 2 p.m.) – Milwaukie Farmers Market Children's Day
    - Activities for children, including facepainting and crafts

- **Pride Celebration – Sat., Jul. 26 (11 AM – 2 PM) – Postponed from June 21**
  - Join a community-led festive gathering to celebrate LGBTQIA+ Pride Month!
  - Event includes community groups, crafts, fun activities, and live entertainment
  - Scott Park, 10660 SE 21st Ave. (Next to Ledding Library)

- **Middle Housing Town Hall – Mon., Jul. 28 (5:30 – 7:30 PM)**
  - Learn how we got to the middle housing policies of today and what the process looks like.
  - Council will have a discussion with attendees about what to consider as the city prepares for more middle housing.
  - **Learn more and submit questions for the town hall** on Engage Milwaukie at **engage.milwaukieoregon.gov**.

- **LEARN MORE AT MILWAUKIEOREGON.GOV OR CALL 503-786-7555**

Mayor's Announcements – July 8, 2025

The Little Float

August 2, 2025

www.little-float.com

Mayor's Haiku – July 8, 2025

Sunburns hug my face,
ice cream melts faster than me,
summer's prank on us.

Share your Milwaukie Haiku!
Email yours to bateyl@milwaukieoregon.gov

SPS Agenda Item 5

Community Comments

SPS 5. 7/8/25
Correspondence

Scan:

Date: Sunday, July 6, 2025

From: Andrelyn Izquierdo, Human Rights Activist

Subject: Technology Rape and Human Traffickers

Phone: (216)-399-8491

Email: andrelynizquierdo23@gmail.com

Wednesday, July 2, 2025

Dear Councilmembers,

I am writing this to you to help you be aware of a huge issue that we have in our country that has got to change immediately. Technology rape and / or sexual assault via technology is very prevalent and it intersects with so many crimes, not just sex crimes, that have been on the rise over the years in each state. It sucks the life out of the wifi and us human beings with how people have been utilizing virtual reality equipment and artificial intelligence technology. There are many consensus statistics and other numbers that do not seem to add up if you were to go check on a website right now to confirm because of the lack of reporting that is still occurring. There is still so many people who think that they can perform so many inhumane acts on lots of people and claim them as property by ignoring ALL OF THEIR RIGHTS and taking claim over ALL of their personal identification documents. These kinds of people are known as Human Traffickers. Here is an idea of what they like to do in an articles that I wrote on my website called What Human Traffickers Do:

https://andrelynwriting.wixsite.com/website/post/what-human-traffickers-do

This has to STOP!

I have been a sexual assault and human trafficking victim and survivor for so long that it is getting old with the same old methods that they have been using that's easily recognizable and wouldn't take much time to see in a quick observation or month-long audit of different organizations to ensure that things come to halt and eventually cease. They deny resources including through Federal Institutions that are essential to living while significantly reducing the quality of our lives. They do this in several ways. I have written an article about many event that have occurred to me to break down simply how many things can pile up to increase the amount of hardship an individual, single mother with children or dogs, or an entire family household can experience. You can find this on this website article titled Crimes That Human Traffickers Commit:

https://andrelynwriting.wixsite.com/website/post/what-human-traffickers-do-1

I hope that now that you have this information officially within the grasp of your hands that you consider these detrimental actions while creating and amending policies from here on out. Thank you for taking the time to read this letter. I will be continuing to try to reach you with additional resourceful information to help increase positive change within our torn communities.

Sincerely,

Andrelyn Izquierdo

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Andrelyn Izquierdo

andrelynwriting
Jan 14, 2023 · 3 min read

What Human Traffickers Do

Written by Andrelyn Izquierdo.

A resource guide of verbs performed by Human Traffickers and their corresponding definitions.

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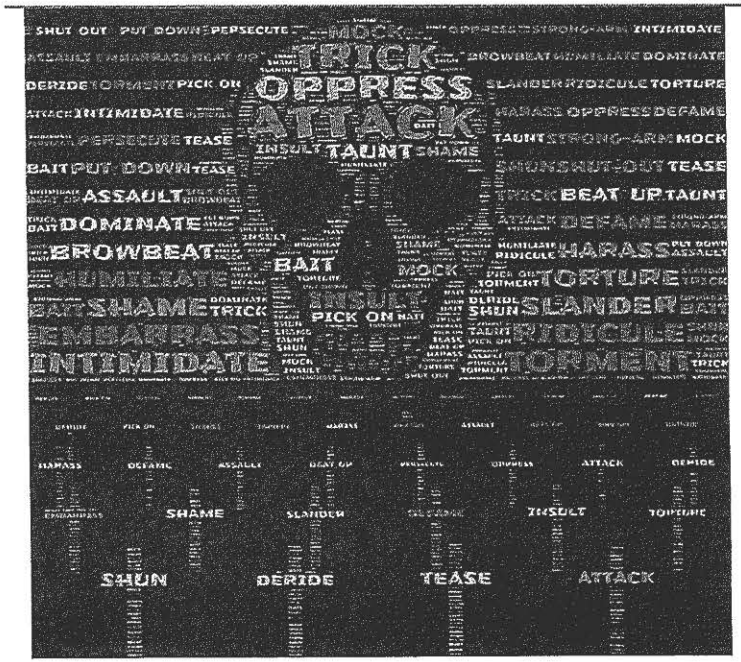

Image by Johnhain from Pixabay.

An alphabetical list of actions made by Human Traffickers from any background or location accompanied by handpicked simpler to understand definitions from online Dictionaries. The intention of this article is to enable people to gauge the amount of potential danger each word carries when successfully followed through. Each word has a negative context and is an abusive action performed on another individual.

A - H

- Assault - to attack violently.
- Attack - to set upon or work against forcefully.
- Bait - to persecute or exasperate with unjust, malicious, or persistent attacks.

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- **Bondage** - to physically restrain or hold captive a person using compulsion, manipulation, or sadomasochistic sexual practices; to enslave.
- **Belittle** - to cause (a person or thing) to seem little or less; to talk down to.
- **Browbeat** - to intimidate or disconcert by a stern manner or arrogant speech.
- **Bully** - to treat (someone) in a cruel, insulting, threatening, or aggressive fashion; to cause (someone) to do something by means of force or coercion.
- **Coerce** - to compel to an act or choice.
- **Compel** - to drive or urge forcefully or irresistibly.
- **Defame** - to harm the reputation of by communicating false statements about.
- **Dehumanize** - to subject someone to inhuman or degrading conditions or treatment.
- **Deride** - to subject to usually bitter or contemptuous ridicule or criticism.
- **Dominate** - to predominate, permeate, or characterize.
- **Enslave** - to reduce to or as if to slavery; subjugate.
- **Exploit** - to make use of meanly or unfairly for one's own advantage.
- **Force** - to compel by physical, moral, or intellectual means.
- **Grooming** - to make neat or attractive.
- **Insult** - to affect offensively or damagingly.
- **Harbor** - to give shelter or refuge to.
- **Harass** - to create an unpleasant or hostile situation for especially by uninvited and unwelcome verbal or physical conduct.
- **Humiliate** - to reduce (someone) to a lower position in one's own eyes or others' eyes; to make (someone) ashamed or embarrassed.

I - P

- **Insult** - to affect as an affront; offend or demean.
- **Intimidate** - to compel or deter by or as if by threats.
- **Lie** - to make an untrue statement with intent to deceive; to create a false or misleading impression.
- **Lure** - to induce or entice with a hint of pleasure or gain.
- **Manipulate** - to control or play upon by artful, unfair, or insidious means especially to one's own advantage.
- **Mock** - to treat with contempt or ridicule.
- **Murder** - to kill (a human being) unlawfully and with premeditated malice.
- **Obtain People** - to gain or attain usually by planned action or effort.
- **Oppress** - to crush or burden by abuse of power or authority.
- **Persecute** - to harass or punish in a manner designed to injure, grieve, or afflict.
- **Pick On** - to single out for criticism, teasing, or bullying.
- **Pimp** - to make use of often dishonorably for one's own gain or benefit.
- **Put Down** - disapprove, criticize.

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Q - W

- **Rape** - to commit rape on.
- **Recruit** - to fill up the number of with new members.
- **Ridicule** - to make fun of.
- **Shame** - to force by causing to feel guilty.
- **Shun** - to avoid deliberately and especially habitually.
- **Shut Out** - Exclude, deny entry to, block.
- **Slander** - to utter slander against; defame.
- **Stalk** - to pursue quarry or prey stealthily.
- **Taunt** - to reproach or challenge in a mocking or insulting manner.
- **Tease** - to disturb or annoy by persistent irritating or provoking especially in a petty or mischievous way.
- **Torture** - the infliction of intense pain (as from burning, crushing, or wounding) to punish, coerce, or afford sadistic pleasure.
- **Transport** - to transfer or convey from one place to another.
- **Torment** - to cause severe usually persistent or recurrent distress of body or mind to.
- **Trick** - a crafty procedure or practice meant to deceive or defraud.

If there is another word you would like to see added onto this compilation or a word further explained, please leave a comment below.

Try to #besafe
#beempowered

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2. Dictionary.com, LLC. https://www.dictionary.com/. January 13, 2023.
3. Merriam-Webster Dictionary. https://www.merriam-webster.com/. January 13, 2023.
4. Reyes, Cazzie. End Slavery Now. Justifying Human Trafficking: The Mind of a Trafficker: https://www.endslaverynow.org/blog/articles/justifying-human-trafficking-the-mind-of-a-trafficker. January 12, 2023.

#HumanTrafficker #whattheydo #whathumantraffickersdo #actions #taken #EndDV #SlaveryandHumanTraffickingPreventionMonth #educational #resource #awareness #research #sexualviolence #labortrafficking #drugtrafficking #sextrafficking #commercialsexacts #HumanTrafficker #domesticabuse #EndRape #geteducated #victim #survivor #list #slavery #survivalguide #compel #coerce #force #assault #abuser #rapist #trafficker #pimp #transport #torture #murder #UnseenFortitude #empowerment #blogger #writer #poet

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This article is written by:
Andrelyn Izquierdo
#AndrelynWriting
https://www.facebook.com/UnseenFortitude

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Andrelyn Izquierdo

andrelynwriting
Sep 9, 2023 · 4 min read

Crimes That Human Traffickers Commit

Updated: May 1, 2024

Written by Andrelyn Izquierdo.

A catalog of crimes committed by Human Traffickers along with my personal experiences.

WARNING: *This article contains sensitive content and may be found offensive or triggering to some people. It is intended for educational and awareness purposes to help victims and their loved ones to recognize signs of Racism, Harassment, Human Trafficking, Sex Trafficking, and/or Rape. Very graphic details may include explanations from my personal experiences. If for any reason you are not ready to see details of abuse, feel free to move on and come back when you are ready. It is also recommended that you view this with a friend or family member for emotional support.*

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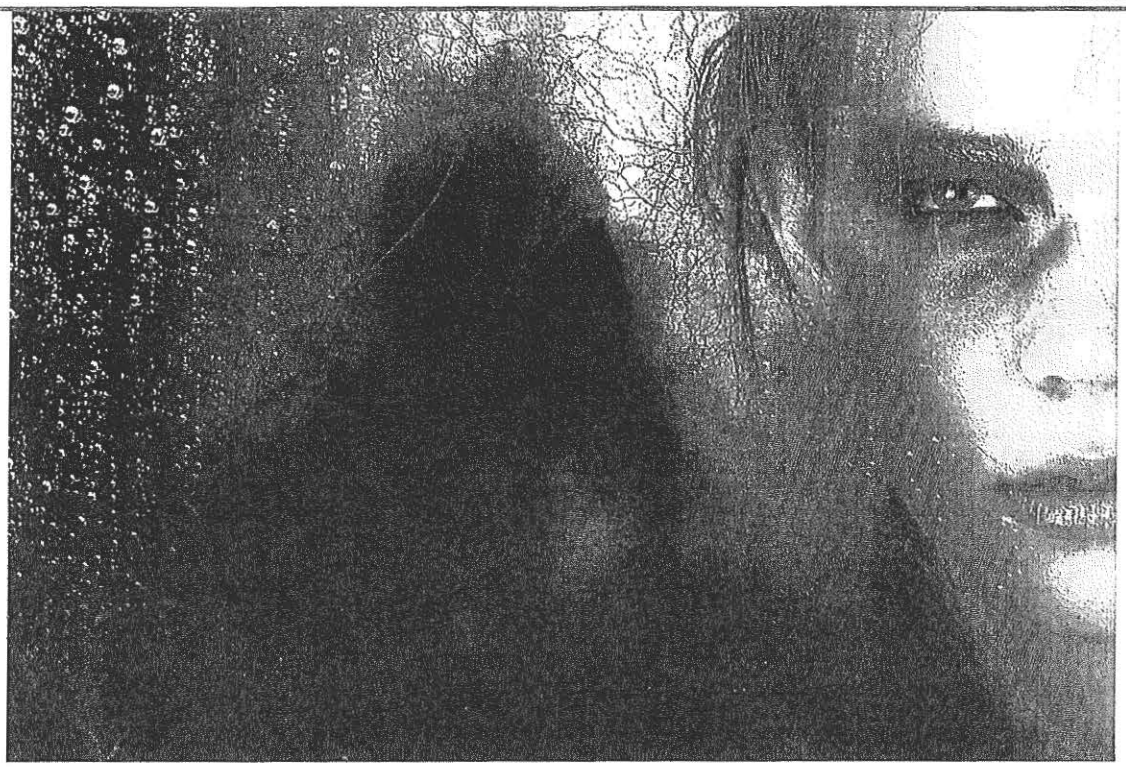

Image by Public Domain Pictures from Pixabay.

From my experiences as well as others who I have spoken to including loved ones, things are a lot tougher to overcome against Human Trafficking and other forms of abuse while homeless. This doesn't mean that it only occurs while a person is homeless. It can happen anytime, anywhere. In any situation, there is no forgiveness nor chances given when it comes to people who are homeless. They become voiceless as people begin to spew out their excuses, rejections, or denials limiting their access to independence to thrive in life. In order for a person to increase the quality of their own life, they have to fight the barriers put up by abusive people whose main goal is to tear down their reputation and achievements. This can be completed in multiple ways.

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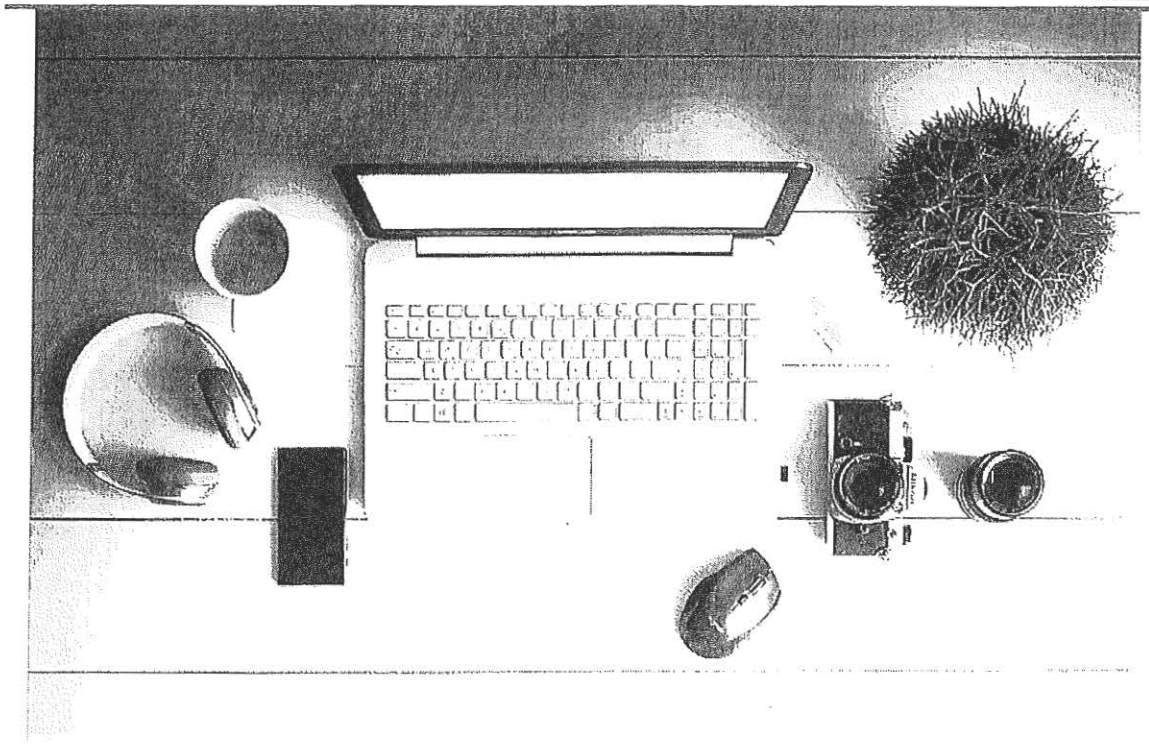

Image by Skitterrians from Pixabay.

Denying Internet Access

- Lock phones on Enter passcode screens disabling Touch ID (fingerprint access) or facial recognition.
- Disconnect Wi-Fi or disable it entirely.
- Close online accounts.
- Delete loyalty reward accounts with retail stores and other local businesses.
- Drain battery life on electronic devices.
- Deny access to online accounts with 1 month trial subscriptions to charge monthly.

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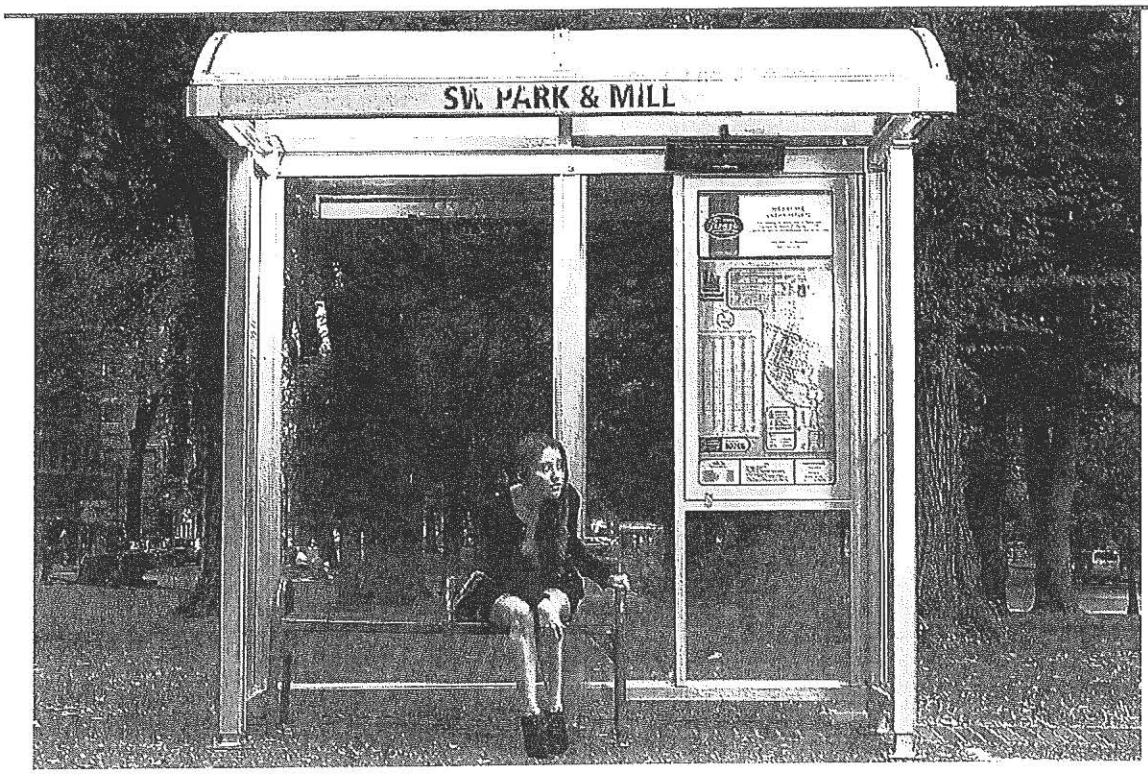

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Restrictions on Transportation

- Vandalize cars, destroy car batteries slowly and quickly.
- Destroy license plate covers.
- Shut down buses.
- Take down bus stops signage.
- Increase pricing.
- Wipe out transportation cards of leftover money balances. For example: orca or metro cards.
- Infiltrate transportation security and do extra targeted checks.
- Steal bus transfers or coins from personal belongings.
- Switch out newer car model parts for older car model parts.

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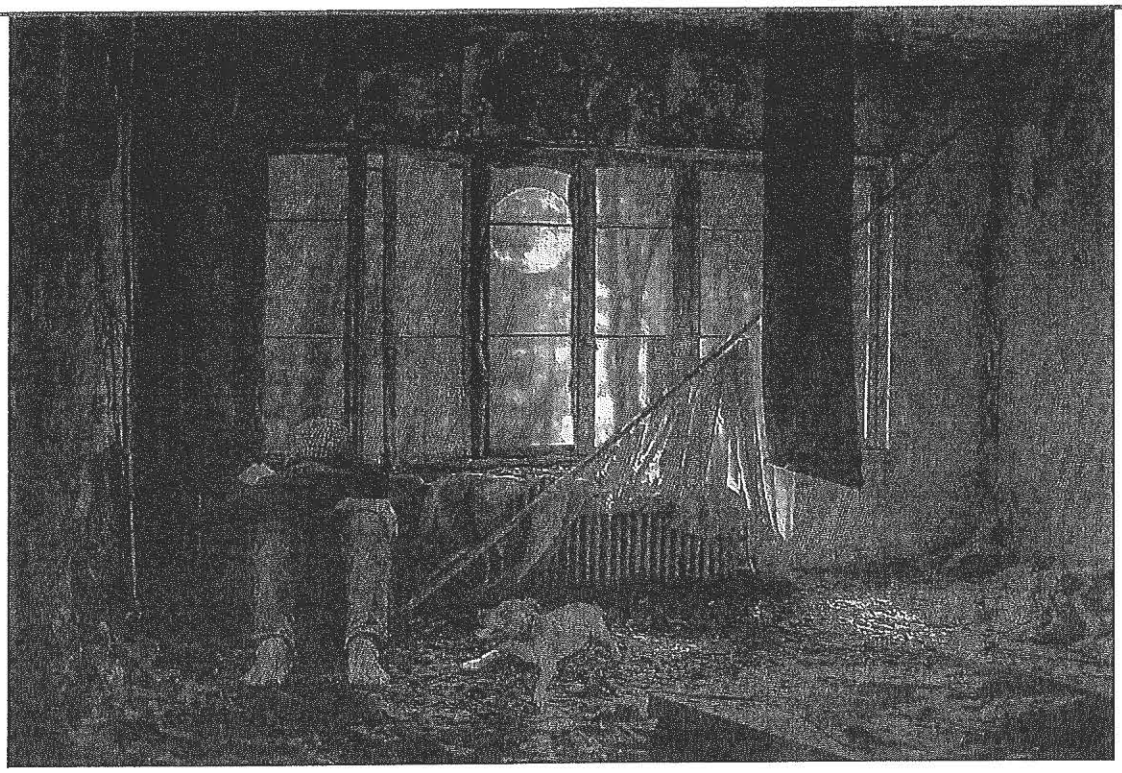

Image by Myriams Fotos from Pixabay.

Deny Success / Enslaver

- Steal belongings.
- Illegal raids and delivery to hospital psychiatric wards.
- Implant metal micro needle IV's inside of the body between tissue.
- Sexual assault.
- Debt bondage.
- Threatening family every second of the entire day.
- Monitoring finances, closing bank accounts, and forcing filing of bankruptcies.
- Damaging debit/credit card strips and chips.
- Call recruiters, interviewers, and hiring managers to give out rejections for job hiring.
- Commit identity theft.
- Threatening family every second of the entire day.
- Monitoring finances, closing bank accounts, and forcing filing of bankruptcies.
- Damaging debit and credit card chips.
- Contact recruiters, interviewers, and hiring managers to give out rejections for job hiring.
- Call restaurants about requesting date rape drugs to specific orders and deliver containers of poison before the customer gets there.
- Contact businesses to manually overcharge orders / purchases.

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- Deny access to businesses, specific services, or sections of facilities.

  For example: Early closures or unannounced random daily closures.

- Steal uniforms of workplaces from employees' personal belongings.
- Steal education credentials.
- Isolate the victim from family members.

Image by Mintchipdesigns from Pixabay.

Vandalize Clothing & Accessories

- Threading at the seams, sleeves, designs, etc.
- Adding bodily fluid stains in random areas.
- Bleaching especially around designs and lettering.
- Tearing apart and ripping clothing. This happens more to panties and leggings than other articles of clothing.
- Stretching out clothing by wearing a victim's clothing regardless of the attacker's size. This also occurs when the victim is rustled or carried around by the clothes as well.
- Removal of strings from sweatpants, jackets, hoodies, and other outerwear.

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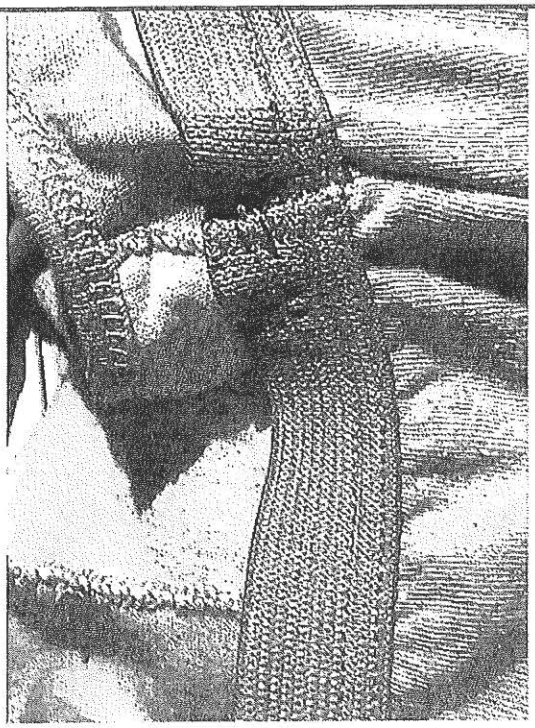
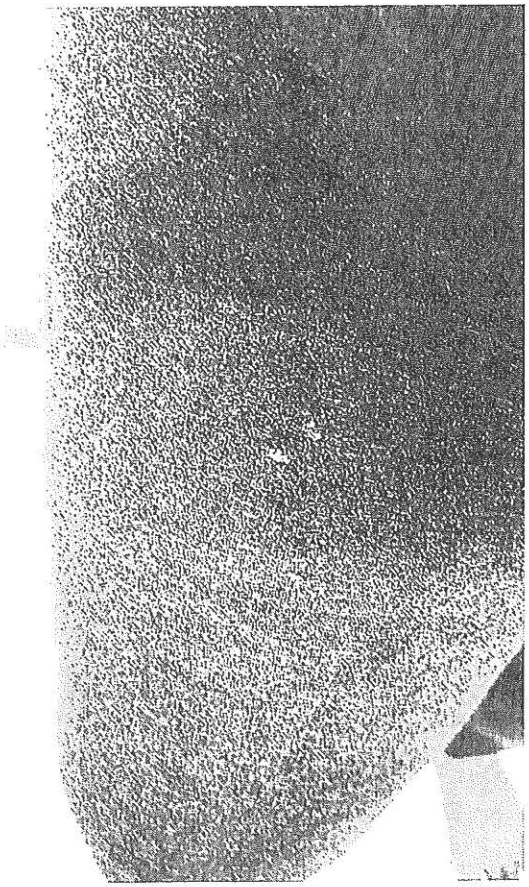


July 27

Stolen panties were returned to my room while I was away worn, torn, and threaded.
Image by Andrelyn Izquierdo.



August 2nd

My leggings had a cum stain on them after waking up.

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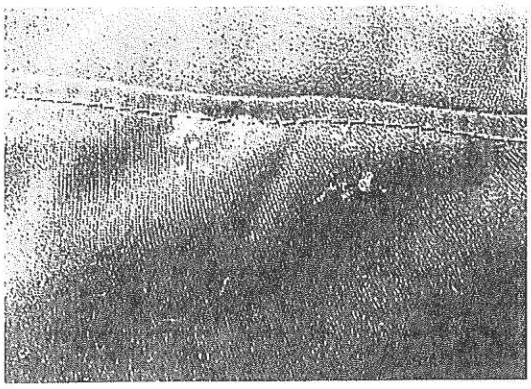

My navy blue jacket with cum stains that I have no idea how they got there overnight while I wasn't wearing it.
Image by Andrelyn Izquierdo.

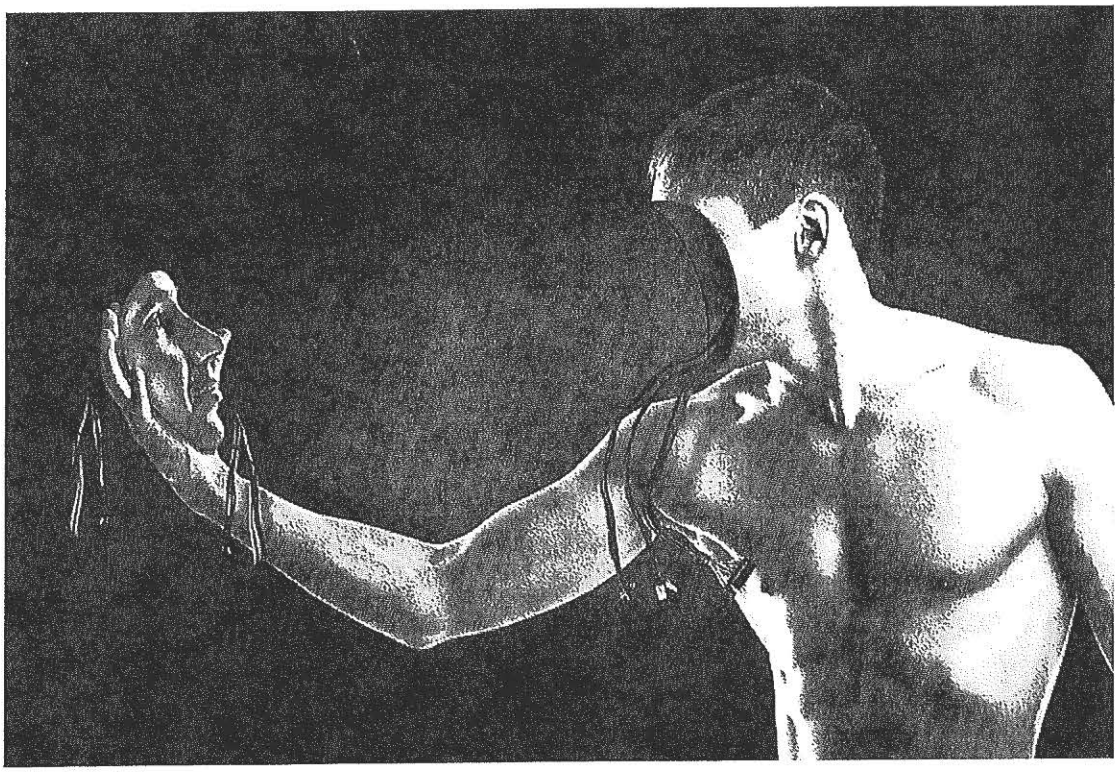

Image by 51581 from Pixabay.

Transform Humans to Robots or Sex Dolls

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- Insert screws, drills, and/or any other metal parts in or outside of the body.
- Heavily human trafficking of organs for removal.
- Implantations of snake eggs in the abdomen or uterus for snake harvesting.
- Injections of plastic, lead, mercury, date rape drugs, or more into veins or organs.
- Solidify mercury in different areas of the body to create plates during implantations.
- Using metal open-ended cog drills of various sizes along with cobra venom to create holes within the inner layers of flesh throughout the body.

Overall, it is evident that a victim is denied everything they could ever want or need by a Human Trafficker. It's more extreme than just having to compare one's life to the metaphor of pushing a boulder up the mountain. Experiencing a cluster of these layered issues all in one is like having to

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Here are some reminders to take with you:

In the face of danger, choose #courage and #speakup.
Please #becareful and try to #besafe.
#LearnTheSigns
#GetEducated

#homelessness #HumanTrafficking #abuse #awareness #speakup #speakout #UnseenFortitude #empowerment #blogger #truestory

This information was gathered from friends, family, and my life experiences combined.

Inspired by my true story.

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Thank you for reading!

This article is written by:
Andrelyn Izquierdo
#AndrelynWriting
https://www.facebook.com/UnseenFortitude

From: Stacia Martin
To: Stacia Martin
Subject: Grand Ronde's Sovereignty Is at Risk!
Date: Thursday, July 3, 2025 11:12:41 AM

This Message originated outside your organization.

Grand Ronde's Sovereignty Is at Risk!

In 2023, the Oregon Fish and Wildlife Commission corrected a historic injustice by restoring the Grand Ronde's ability to issue fishing and hunting tags for land within the Tribe's homelands without state permits.

This agreement plays a critical role in preserving Grand Ronde's cultural traditions and legacy. It also balances the Tribe's rights with wildlife population management needs by opening these Tribal hunting and fishing activities to a mere 7% of Oregon's total land open to hunting and fishing.

Some Columbia River tribes, however, have falsely claimed the agreement with the state of Oregon should be nullified. These other tribes, many of whom do not even reside in Oregon, want the Commission to reverse its agreement with Grand Ronde on claims that range from misleading to downright untruthful.

The truth is this agreement does not impact any other tribe's treaty rights. Oregon is simply honoring Grand Ronde's connection to the land and their ancestral homelands.

We need you to voice the truth! With your help, we can ensure Grand Ronde's hunting and fishing rights on their ancestral land are not taken away. Please visit this link to tell the Commission to honor their agreement!

https://mstr.app/a1a77275-df45-4f08-9491-9a3af663fedf

tayi (best),
stacia

stacia hernandez

chief of staff
confederated tribes of grand ronde tribal council
cell: 541-654-2993
email: stacia.martin@grandronde.org
website(s): www.grandronde.org
www.tumwatavillage.org
www.greatcirclerecovery.org

did you know that chinuk wawa does not use upper and lower case letters; that is why when you see chinuk wawa text it is not capitalized. the email you are receiving has adopted this format. the documents accompanying or information included in this electronic transmission contain confidential information belonging to the sender that is legally privileged. this information is intended only for the use of the individual or entity named above. the authorized recipient of this information is prohibited from disclosing this information to any other party and is required to destroy the information after its stated need has been fulfilled, unless otherwise required by state law. if you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. if you have received this email in error, please notify the sender immediately to arrange for return of these documents. hayu masi (many thanks).

SPS Agenda Item 6

Consent Agenda

CITY OF MILWAUKIE

COUNCIL STUDY SESSION

Chachalu Museum & Cultural Center
9615 Grand Ronde Road, Grand Ronde, OR 97347
(www.milwaukieoregon.gov/meetings)

MINUTES

MAY 13, 2025

Council Present: Councilors Adam Khosroabadi and Robert Massey, and Mayor Lisa Batey

Council Absent: Councilor Rebecca Stavenjord and Council President Will Anderson

Staff Present: Joseph Briglio, Assistant City Manager; Emma Sagor, City Manager; Nicole Madigan, Deputy City Recorder; Scott Stauffer, City Recorder

Council departed City Hall by car around 9:15 a.m. and arrived at the Chachalu Museum and Cultural Center at 10:53 a.m.

1. Museum Tour

Council and staff participated in a guided tour of the Museum led by David Harrelson, Cultural Resources Department Manager at the Confederated Tribes of Grand Ronde.

2. Lunch Break

Members of Tribal Council, Tribal staff, City Council and staff had lunch together.

3. Joint Session of the Tribal Council and City Council

Lunch continued into the joint session with Tribal Chairwoman Cheryle A. Kennedy and Tribal Councilors Lisa Leno and Tonya Gleason-Shepek. Tribal Council and staff, and City Council and staff participated in introductions, an update on the progress of the First Fish Herons project at Milwaukie Bay Park, and the removal of the Kellogg Creek Dam.

After the joint session, City Council and staff participated in a driving tour of the Grand Ronde community.

4. Adjourn

City Council and staff departed Grand Ronde by car at 1:50 p.m. and arrived at City Hall around 3:50 p.m.

Respectfully submitted,

_____
Nicole Madigan, Deputy City Recorder

CITY OF MILWAUKIE

COUNCIL WORK SESSION

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MINUTES

MAY 20, 2025

Council Present: Councilors Adam Khosroabadi on Zoom, Robert Massey, Rebecca Stavenjord, and Council President Will Anderson, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Assistant City Manager
Jennifer Garbely, City Engineer
Justin Gericke, City Attorney
Nicole Madigan, Deputy City Recorder
Michael Osborne, Finance Director
Peter Passarelli, Public Works Director
Emma Sagor, City Manager

Mayor Batey called the meeting to order at 4:12 p.m.

1. Quarterly Capital Improvement Plan (CIP) Update – Report

Garbely provided a comprehensive update on active capital projects, beginning with the Meek Street North stormwater facility, which was nearing completion. **Garbely** outlined the final steps and responded to questions from Mayor Batey and Councilor Massey regarding access, plants, irrigation. **Garbely** noted that once complete the Meek Street North stormwater facility would connect to the Oak Street facility. **Mayor Batey** inquired about future plans for the Roswell detention pond, and **Passarelli** replied that only preliminary conceptual discussions had occurred.

Garbely shared updates on the Washington Street improvements and Ardenwald North improvements. **Mayor Batey** and **Garbely** discussed parking in relation to mountable curbs and shared street design.

Garbely reviewed the 2025 street maintenance and slurry seal programs. **Council President Anderson** asked how staff would prioritize street segments if funding did not allow for all 4.7 miles to be paved. **Garbely** advised they would cluster projects for cost-efficiency. In response to Councilor Massey's inquiry about the slurry seal schedule **Garbely** that the work was planned around the school year to avoid conflicts with school buses. **Garbely** also noted the development of a construction map for the Farmers Market and reported that four speed cushions would be installed on Wichita Avenue as part of the city's spot program, with work proceeding if bids were under $25,000.

Garbely informed Council that the Main Street sidewalk project was completed, with punch list work underway. **Mayor Batey** asked about the performance of the new tree wells, and **Garbely** responded that performance would be assessed following winter.

Garbely provided updates on the Monroe Street Greenway improvements. The group discussed Oregon Department of Transportation's (ODOT) work at Monroe and Highway 224, including plans to reduce vehicle speeds.

Garbely reviewed the timeline for Harvey Street improvements. **Mayor Batey** inquired about Portland General Electric's (PGE) coordination with the engineering team for pole replacements. **Council President Anderson** and **Garbely** discussed sidewalk installation and traffic control devices on Harvey.

Garbely reviewed the timeline for King Road improvements. **Sagor** asked about outreach efforts, and **Garbely** replied that residents would be notified of the selected

contractor and an open house style event would likely be held. **Council President Anderson** and **Garbely** discussed traffic control devices planned for King Road.

Garbely provided an update on the Waverly Heights sewer project, Stanley Street improvements, Waverly South and 26th Avenue improvements, and the Stanely Reservoir.

Garbely gave a water engineering services update. The group discussed the updates focusing on per- and polyfluoroalkyl substances (PFAS), and what was being considered for the new reservoir.

Garbely and **Mayor Batey** discussed a grant that the city was waiting to be awarded to conduct a safety assessment on Harrison Street. **Garbely** also shared that the engineering team had recently received an award, replaced two engineering technicians, and would be contracting two construction consultants.

Garbely concluded with a review of the Capital Improvement Projects (CIP) timeline. **Sagor** provided clarification on the reasoning behind the timeline.

The group discussed street striping and **Sagor** acknowledged National Public Works Week and thanked staff.

2. Fiscal Year (FY) 2026 Solid Waste Rates Review – Discussion

Chris Bell of Bell & Associates provided an overview of the city's three franchise haulers: Waste Management, Kahut (owned by Waste Connections), and Clackamas Garbage (serving fewer than 20 customers); and outlined the service territories, number of accounts, recent service volume, and updated driver-related costs. **Mayor Batey** and **Bell** discussed the regulatory differences and cost disparities between composting yard debris alone versus yard debris mixed with food waste.

Bell reviewed disposal cost trends over the past five years.

The group discussed Metro's Regional Waste Advisory Committee, expressing frustration over escalating disposal costs. Council expressed interest in sharing concerns with the Committee, noting its next meeting was scheduled for Thursday, May 22 at 2:00 p.m. Several Council members indicated interest in following up with Metro.

Bell provided calculations showing the monthly cost of organics disposal compared to yard debris alone. The group discussed possible changes to the program.

Bell presented updated drop box service rates, and **Councilor Massey** calculated the cost.

The group weighed the costs and benefits of the organics disposal and bulky waste programs and discussed current service usage, noting that the organics fee covered meat, eggs, and dairy, that the program aligned with city values more than the bulky waste service, and considered replacing bulky waste days with more environmentally friendly options.

Council summarized final thoughts on whether solid waste rate changes should be implemented. The group discussed contamination fees, cost differences across waste streams, and the challenges of mid-year changes to the organics program. Council members continued to summarize their thoughts on whether changes should be made to the solid waste rates and agreed that the community should be surveyed on the solid

waste services they use. **Sagor** stated that staff would return with the proposed rates as presented for inclusion in the June 3 fee schedule.

3. Adjourn

Mayor Batey adjourned the meeting at 6:17 p.m.

Respectfully submitted,

_____

Nicole Madigan, Deputy City Recorder

CITY OF MILWAUKIE

2426th Meeting

COUNCIL REGULAR SESSION

MINUTES

City Hall Council Chambers, 10501 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

MAY 20, 2025

Council Present: Councilors Adam Khosroabadi, Robert Massey, Rebecca Stavenjord, and Council President Will Anderson, and Mayor Lisa Batey

Staff Present: Joseph Briglio, Assistant City Manager
Mandy Bryd, Development Project Manager
Justin Gericke, City Attorney
Brett Kelver, Senior Planner
Nicole Madigan, Deputy City Recorder
Michael Osborne, Finance Director
Peter Passarelli, Public Works Director
Emma Sagor, City Manager
Laura Weigel, Planning Manager

Mayor Batey called the meeting to order at 6:39 p.m.

1. CALL TO ORDER

A. Pledge of Allegiance.

B. Native Lands Acknowledgment.

2. ANNOUNCEMENTS

Mayor Batey announced upcoming activities, including a city manager open door session, a marimba band concert, the June First Friday event, the Linwood Neighborhood yard sale, the annual Bulky Waste pick-up days, and a Juneteenth celebration.

Mayor Batey read a Haiku poem about no borders.

3. PROCLAMATIONS AND AWARDS

A. Outstanding Milwaukie High School (MHS) Student – Awards

Kim Kellogg, MHS Principal, introduced Hana Trotter-Viterbo and Millie Gardner and Council congratulated them on their academic and extracurricular achievements.

B. Dogwood Day – Proclamation

Madigan, **Steve Bennett** with the Milwaukie Historical Society, and **Nancy McCrary** with the Susannah Lee Barlow Chapter of the Daughters of the American Revolution (DAR), commented on celebrating Milwaukie's civic birthday the Pacific Dogwood tree. **Mayor Batey** proclaimed May 21 to be Dogwood Day!

C. Historic Preservation Month – Proclamation

Mayor Batey and **Bennett** remarked on preserving historic structures and completing a new historic homes inventory. **Batey** proclaimed May to be Historic Preservation Month.

D. Memorial Day – Proclamation

Councilors Khosroabadi and **Massey** commented on the sacrifices made by those who served in the armed services. **Mayor Batey** proclaimed May 26 to be Memorial Day.

E. Public Works Week – Proclamation

Passarelli introduced the proclamation and commented on the important work done by public works staff. **Mayor Batey** proclaimed May 18 to 24 to be Public Works Week.

F. Asian American Pacific Islander (AAPI) Heritage Month – Proclamation

Councilor Khosroabadi and artist **Emily Lau** remarked on the contributions of AAPI community members. **Mayor Batey** proclaimed May to be AAPI Heritage Month.

4. SPECIAL REPORTS

A. None Scheduled.

5. COMMUNITY COMMENTS

Mayor Batey reviewed the comment procedures. **Sagor** provided updates on comments made at the May 6 meeting, reporting on work related to the middle housing development on Harrison Street and Linwood neighborhood resident concerns about a proposal to build a picnic shelter at Furnberg Park. **Sagor** noted that a Council meeting in July would focus on middle housing projects.

Sarah Soderberg, **Don Wiley**, **Steve Tallman**, and **Linda Loken**, Milwaukie residents, expressed concern about the proposed picnic shelter at Furnberg Park, encouraged the city to improve existing park infrastructure instead, and asked Council to withdraw its support for the picnic shelter proposal.

Heather Buchanan, Milwaukie resident, thanked city staff for working with the neighbors around the middle housing development on Harrison Street, and reviewed concerns about how the development project had proceeded.

Martha Germany, Milwaukie resident, remarked on the wetlands located in Furnberg Park and encouraged the city to upgrade the existing infrastructure instead of building a picnic shelter. **Mayor Batey** noted that the Milwaukie Parks Foundation was working to raise money to replace playground equipment in the city's parks.

6. CONSENT AGENDA

It was moved by Councilor Massey and seconded by Council President Anderson to approve the Consent Agenda as presented.

A. City Council Meeting Minutes:
   1. April 1, 2025, work session,
   2. April 1, 2025, regular session, and
   3. April 8, 2025, study session.

B. Resolution 24-2025: A resolution of the City Council of the City of Milwaukie, Oregon, acting as the Local Contract Review Board, approving the award of a contract for construction for the 2025 Slurry Seal project to VSS International.

C. An Oregon Liquor and Cannabis Commission (OLCC) Application for Giving Café & Bistro, 2037 SE Jefferson Street – Change of Ownership.

Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

7. BUSINESS ITEMS

A. Harrison & Main Lot and Metro – Discussion

Briglio provided an overview of previous attempts to develop the parking lot at the intersection of Harrison and Main. **Mayor Batey** observed that the staff report did not include the 2007 effort to develop the site. **Briglio** reviewed Council discussions about the city's goals for the site, including desired amenities and structures, and constraints.

Erin Kehe, Metro Urban Policy and Development Manager, discussed Metro's Transit Oriented Development (TOD) program goals and success in creating housing and

commercial spaces, and Metro's interest for the Harrison and Main Lot. **Briglio** asked for Council feedback on the site development goals as presented.

Councilor Massey suggested it would be hard to achieve all the goals and not lose event and parking space and encouraged Metro to consider building a land bridge over McLoughlin Boulevard to Milwaukie Bay Park from the lot.

Councilor Stavenjord and **Kehe** remarked on the financial resources, primarily the real market value of the property, availability to develop the site and how the site could be used to support new businesses while not losing the community gathering space.

Mayor Batey and **Kehe** commented on whether the site could use current or future Metro supportive housing services (SHS) bond funding. **Batey** expressed support for developing the city's Sparrow Site before the Harrison and Main Lot. **Briglio** and **Kehe** noted that developing the site was years away from happening.

Councilor Khosroabadi asked if Metro had developed other TOD sites with similar use as a community space. **Kehe** cited similar projects in East Portland and Beaverton and both supported including housing while preserving space for community space.

Mayor Batey noted Council would take public comment on the issue.

Council President Anderson, **Kehe**, and Metro Principal Development Project Manager **Patrick McLaughlin** noted Metro projects that included "tuck-under" or stacked podium parking and funding opportunities to support developing the lot. They remarked on what level of area median income (AMI) housing might be built on the Harrison and Main Lot.

Council President Anderson, **Briglio**, and **Kehe** commented on the likely development timeline for the site, suggesting it could be two-to-three years.

Councilor Stavenjord and **Kehe** remarked on how development construction could impact downtown Milwaukie.

Briglio, **Sagor**, and **Kehe** thanked Council for the feedback and noted staff would be back for future discussions about the project.

David Aschenbrenner, Celebrate Milwaukie, Inc. (CMI) Board Member, asked about the size of Metro's TOD projects in East Portland and Beaverton and hoped there would be a lot of community engagement about the project, noting community concerns and the Farmer Market's desire to remain at the Harrison and Main site. **Mayor Batey** believed the Beaverton site was several blocks in size.

Estelle Morely, Milwaukie First Friday Event organizer, noted other business development opportunity sites in downtown Milwaukie and remarked on the importance of community gathering space and providing parking and charging for vehicles and other forms of transportation.

Mayor Batey and **Sagor** reviewed the proposed next steps, noting staff would likely bring the project back to Council toward the end of the calendar year. **Council President Anderson** asked that the city focus on developing a land banking strategy.

Mayor Batey recessed the meeting at 9:02 p.m. and reconvened at 9:10 p.m.

8. PUBLIC HEARING

A. Natural Resource Code Update – Ordinance

Call to Order: **Mayor Batey** called the public hearing on the proposed natural resource code adoption, to order at 9:10 p.m.

Purpose: **Mayor Batey** announced that the purpose of the hearing was to receive a staff update and deliberate on the proposed code amendments.

Conflict of Interest: No Council member declared a conflict of interest.

Staff Presentation: **Kelver** provided an overview of the intent of the natural resource code's water quality resource (WQR) and habitat conservation area (HCA) statewide regulations. **Mayor Batey** and **Kelver** remarked on whether human created waterways would fall under the natural resource code protections.

Kelver discussed the goals of the natural resource code, including integration of the natural resource and tree codes, state law updates, and amending various resource maps. **Kelver** reviewed the proposed changes, including streamlined WQR standards. **Mayor Batey** and **Kelver** remarked on how much WQR land in Milwaukie was considered Class A, or "good", and therefore not developable.

Kelver continued to review proposed code changes, including residential cluster exemptions and impervious disturbances, verifications of HCA boundaries, and updating natural resource zoning maps. The approval criteria and decision-making options for Council to consider were reviewed.

Correspondence Received: Staff noted correspondence submitted during the Planning Commission's review of the proposed code changes, as well as responses to public notices received by staff.

Audience Testimony: No audience member wished to speak to Council.

Questions from Council to Staff: **Mayor Batey** and **Kelver** commented on why the footprint for impervious disturbances near waterways had been reduced to three feet due to the size of concrete pads for park benches. They also discussed the need for the code to better address public property. **Weigel** suggested bringing additional code changes to address public property to Council later.

Councilor Massey, **Weigel,** and **Mayor Batey** remarked on whether three feet was enough space for four-legged park benches. **Kelver** and **Weigel** noted staff could look at whether a larger space would be needed for benches. The group discussed continuing the hearing to a future meeting.

Close Public Comment: **It was moved by Councilor Massey and seconded by Council President Anderson to close the public comment part of the natural resource code update hearing. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]**

Mayor Batey closed the public comment part of the hearing at 9:42 p.m.

Council Decision: **It was moved by Councilor Massey and seconded by Council President Anderson to continue the hearing to a future date to be determined. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]**

9. COUNCIL REPORTS

A. Semi-Annual Council Budget Review and Food Purchasing Policy – Discussion

Sagor and **Osborne** discussed the current balances of Council's budget line items and provided general guidelines on spending public funds. The group discussed whether Council education and training funds could be use for non-Council members to attend trainings or for sending informational mailers. They noted differences between political mailers and informational flyers, as well as between non-city sponsored events and

official city events. **Sagor** summarized that city funds could not be spent on political activities and should focus on education.

Sagor asked for feedback on whether to continue ordering a monthly Council meal and **Council President Anderson** introduced a proposal to draft a food purchasing policy that would not allow the purchase of meat with city funds.

The group discussed the proposal to adopt a no meat food purchasing policy to support the city's climate action goals. **Osborne** and **Sagor** remarked on the administrative challenges of enforcing a no meat policy. **Mayor Batey** and **Council President Anderson** supported the policy, **Councilors Massey, Khosroabadi, and Stavenjord** had concerns with adopting a no meat purchasing policy. **Mayor Batey** summarized that Council did not support a no meat purchasing policy.

The group discussed whether to continue holding a monthly Council meal with city-purchased food and it was Council consensus to no longer purchase food, but Council would continue to meet for a monthly meal.

B. Legislative and Regional Issues – Discussion

The group reviewed Council legislative letters sent recently and discussed the status of bills in the state legislature that the city had been tracking.

Council Reports

Mayor Batey reported sending a letter to the Clackamas Board of County Commissioners (BCC) regarding the possible purchase of the former Bob's Red Mill store site, announced the opening of a new art gallery on Main Street, thanked Council for their participation in the annual board and committee (BC) interview process, and noted that the League of Oregon Cities (LOC) conference would be held in Portland this year.

Councilor Massey introduced a proposed Council letter to the BCC, which serves as the North Clackamas Parks and Recreation District (NCPRD) Board, regarding proposed staff cuts at the Milwaukie Community Center. The group discussed the letter and there was Council consensus to send the letter to the BCC.

Council President Anderson reported that a Clackamas County Coordinating Committee (C4) letter would list the city's railroad project as the second prioritized project.

10. ADJOURNMENT

It was moved by Councilor Massey and seconded by Council President Anderson to adjourn the Regular Session. Motion passed with the following vote: Councilors Anderson, Khosroabadi, Massey, and Stavenjord and Mayor Batey voting "aye." [5:0]

Mayor Batey adjourned the meeting at 10:42 p.m.

Respectfully submitted,

_____

Scott Stauffer, City Recorder

CITY OF MILWAUKIE

RS 6. B.
7/8/25

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, City Manager

Date Written: June 24, 2025

Reviewed: Jennifer Garbely, City Engineer

From: Josh Neath, Associate Engineer

Subject: **On Call Construction Inspection Services**

ACTION REQUESTED

Council is asked to adopt a resolution authorizing the city manager to sign two (2) separate contracts, one with DOWL LLC and one with Consor North America Inc., for on-call construction inspection services.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

The services to be provided will be on an on-call, as-needed basis. Individual task orders will be issued upon written approval by the city and consultant prior to delivering services. Each task order will include work limits, scope, timeline, and fee to complete to provide for detailed contracting records.

ANALYSIS

The engineering department has several upcoming Capital Improvement Plan (CIP) projects and development projects expected to be under construction soon. With recent turnover in department staff, existing staff learning new positions, and training new staff, the city needs additional resources to effectively inspect project work to assure compliance with plans and specifications. Staff determined that one or more on-call contracts is needed to provide assistance for onsite inspections and constructability reviews of CIP and development projects.

Staff completed a formal, competitive qualification-based selection process in compliance with the city's Public Contracting Rules (PCR) 70.015(A). The solicitation sought to award up to two (2) contracts to sufficiently cover the services needed. Four (4) proposals were received by the solicitation deadline from Consor North America Inc, DOWL LLC, Otak Inc, and Professional Service Industries Inc.

An evaluation group consisting of four engineering staff reviewed and scored all proposals received according to the requested criteria of the solicitation. Two consultants – DOWL LLC and Consor North America Inc. – were deemed the most qualified to provide the requested on-call inspection services and constructability reviews.

If approved by Council, the two contracts awarded from the solicitation will provide services for a period of up to six (6) years.

BUDGET IMPACT

Contract expenses are budgeted by current and future CIP project budgets for the next six (6) years.

CLIMATE IMPACT

Some additional climate impact should be expected due to longer driving distances for consultant staff.

EQUITY IMPACT

Public notice was advertised in the minority-focused publication, the Asian Reporter, as well as in the Daily Journal of Commerce (DJC), and Portland Business Journal newspapers to advertise the requested services to the most diverse audience possible. And although none of the proposers were certified with the State of Oregon's Certification Office for Business Inclusion and Diversity (COBID), the solicitation's criteria did include a scored element for any firm submitting a proposal who was COBID-certified.

WORKLOAD IMPACT

Additional time from the engineering team will be required to oversee the on-call contracts; however, the contracts highly benefit staff by providing additional resources.

COORDINATION, CONCURRENCE, OR DISSENT

Managers from the engineering departments reviewed and approved the contract scope of work; and managers from the engineering and finance departments reviewed and approved the budget.

STAFF RECOMMENDATION

Staff recommend that Council award on-call construction inspection services contracts to DOWL LLC for $750,000 and Consor North America Inc. for $750,000.

ALTERNATIVES

Council could choose to:

1. Award the contract services as presented,
2. Reject all proposals in the public interest and direct staff to revise and re-solicit the services during a more favorable period, or
3. Reject all proposals in the public's interest.

ATTACHMENTS

1. Resolution

CITY OF MILWAUKIE

COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, APPROVING THE AWARD OF TWO CONTRACTS – WITH DOWL LLC AND CONSOR NORTH AMERICA INC. – FOR ON-CALL CONSTRUCTION INSPECTION SERVICES.

WHEREAS access to additional staffing resources to review designs and inspect upcoming capital improvement and private development projects are needed to address the city engineering department's current and planned workload; and

WHEREAS turnover in the city's engineering department staff has created a shortfall in both staffing time and construction experience; and

WHEREAS the need for additional construction inspection services is necessary to overcome this shortfall; and

WHEREAS staff performed a formal, competitive qualification-based selection procurement in compliance with the city's Public Contracting Rule (PCR) 70.015(A); and

WHEREAS DOWL LLC and Consor North America Inc. were identified as the top two qualified consultants to provide the services needed.

Now, Therefore, be it Resolved by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to execute contracts with DOWL LLC for $750,000 and Consor North America Inc. for $750,000 for on-call construction inspection services and constructability reviews. Additionally, the city engineer or assistant city engineer are authorized to administer each contract in accordance with the project specifications in an amount not to exceed 25% of each original contract value.

Introduced and adopted by the City Council on **July 8, 2025**.

This resolution is effective immediately.

Lisa M. Batey, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

SPS Agenda Item 7

Business Items

CITY OF MILWAUKIE

RS 7. A.
7/8/25

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, city manager

Date Written: June 26, 2025

Reviewed: Hannah Wells, web services coordinator
Jason Wachs, community engagement coordinator

From: Jordan Imlah, communication program manager

Subject: **New City Website Preview**

ACTION REQUESTED

City Council is asked to receive a preview of the city's new website and provide feedback before it goes live on July 23, 2025.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

Jan. 19, 2017: Staff previewed the current city website, the most recent instance of a major update.

ANALYSIS

The last major overhaul to the city's official website was in February 2017. The platform that the current website is built on has become obsolete and can no longer be maintained by the city's web provider, CivicPlus. To avoid any service disruptions, the city issued a request for proposals in August 2024 for a new provider to host the city's website on a new platform. The city also felt this was an opportunity to improve user friendliness and address some long-standing limitations of the old website.

After a competitive process, the city awarded the contract to Revize. Since then, the city has worked with Revize to create a new layout and design, as well asmigrate content from the current website to the new website. Staff used extensive website analytics to ensure critical content was migrated to the new site, while making sure the most frequently accessed resources are prominently situated on the new site.

Given time and resource limitations, staff were directed to engage predominantly internal stakeholders in the web redesign and refresh process. City staff did, however, consult the Equity Steering Committee for feedback on accessibility and usability of the current website as well as what they feel would make the new website more accessible for community members. Content managers from all departments have also been involved in reviewing and migrating content to the new site.

Highlights of the new website include:

- Improved search functionality
- Ability to send newsletters to subscribers on various topics
- Easier ability to identify events and activities occurring in the city
- A more logical structure for accessing information about city services

The new site will launch on July 23, 2025. At that point, the old website will be archived for a 2-month period by CivicPlus as a precaution in case any content was missed during the migration period.

BUDGET IMPACT

In year one, the new website will cost $29,370, including hosting, and $6,570 for hosting for years two through five. The city will receive a free website redesign in year five.

CLIMATE IMPACT

Not applicable.

EQUITY IMPACT

The new website meets Americans with Disabilities Act (ADA) Web Content Accessibility Guidelines (WCAG) 2.2 AA standards and includes an ADA accessibility widget, which allows users to set accessibility preferences. The website also includes buttons on the homepage to quickly translate content into the three languages most spoken in Milwaukie (Spanish, Russian and Mandarin), as well as a dropdown menu to translate content into more than 50 additional languages. As noted above, the Equity Steering Committee was also briefed and engaged as part of the website refresh process.

WORKLOAD IMPACT

City staff, especially the web team, have spent considerable time transitioning the content and services provided on the current website to the new website. That workload will gradually taper down after the new website is live, however, troubleshooting and maintenance by staff is still required moving forward.

COORDINATION, CONCURRENCE, OR DISSENT

The web team has coordinated with every city department to ensure their content has migrated to the new website, and to provide training for staff who make updates and manage their department's content on the website regularly.

STAFF RECOMMENDATION

Provide any necessary feedback to staff that will help ensure a smooth launch to the new website.

ALTERNATIVES

Not applicable.

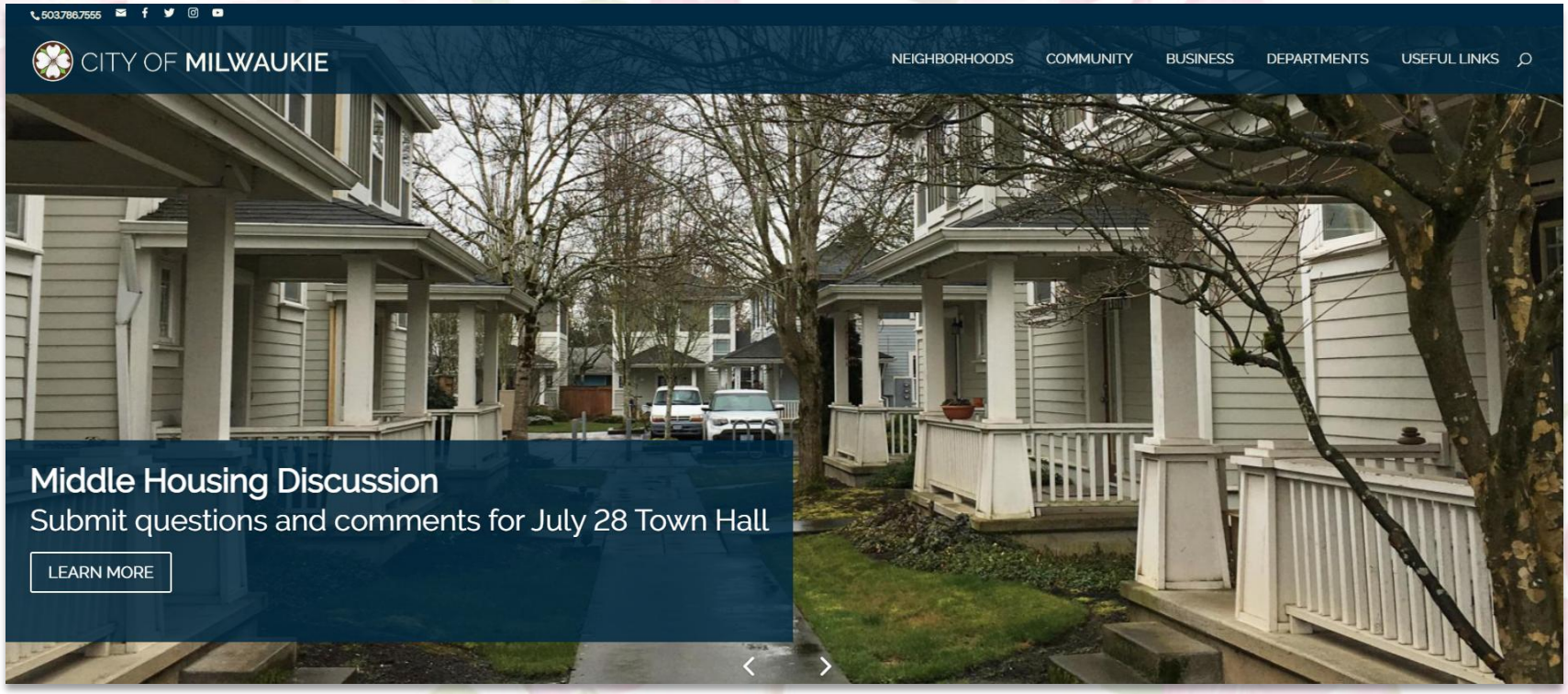
ATTACHMENTS

None.

SPS 7. A. 7/8/25
Presentation

NEW CITY WEBSITE

CURRENT WEBSITE



- Last refreshed in February 2017
- Maintained by CivicPlus
- Platform is now obsolete

RFP PROCESS

Received 3 proposals

- Granicus
- CivicPlus
- Revize

Selected Revize

- Year 1: $29,370 + hosting
- Year 2-5: $6,750
- Year 5: Free redesign

NEW WEBSITE HIGHLIGHTS

Improved search functionality

Ability to send aesthetically pleasing newsletters to subscribers about a variety of topics

Easier to identify events and activities occurring in Milwaukie

More logical structure for accessing city services and finding information

NEW WEBSITE HIGHLIGHTS

Meets ADA Web Content Accessibility Guidelines (WCAG) 2.2 AA standards

Includes an ADA accessibility widget, which allows users to set accessibility preferences

Features convenient buttons on the homepage to quickly translate content into the 3 languages most spoken in Milwaukie

Special Sneak Preview of the

CITY OF MILWAUKIE'S NEW WEBSITE

NEXT STEPS

- New features added to homepage, like this one
- Web team will continue quality assurance
- Staff will continue organizing their department's content
- Website will go live on *July 23*
- Old website is archived for 2 months

Thank You!

CONTACT

Jordan Imlah
Communication Program Manager
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CITY OF MILWAUKIE

RS 7. B.
7/8/25

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COUNCIL STAFF REPORT

To: Mayor and City Council

Date Written: Jun. 19, 2025

Reviewed: Emma Sagor, City Manager

From: Joseph Briglio, Assistant City Manager
Ciara Williams, Economic Development Coordinator

Subject: **Economic Development Goal Quarterly Update**

ACTION REQUESTED

Council is asked to review the actions completed in the second quarter (Q2) of calendar year 2025 and discuss the upcoming council and staff actions for the third quarter (Q3).

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

January 31 – February 1: Council held a two-day retreat for the purposes of reviewing feedback and survey results associated with possible goals, as well as deliberating and confirming the top three for 2025-2027.

February 4: Council formally adopted economic development, parks and greenspace, and affordability as the city's three goals for 2025-2027.

April 1: Council reviewed the draft economic development action plan, proposing edits to the metrics, implementation partners, goals, and actions.

ANALYSIS

Council approved three citywide goals at its February 4 regular session meeting. These goals included economic development, parks and greenspace, and affordability. During that discussion, staff agreed to provide Council with a draft action plan for each goal on a monthly rotation (quarterly basis) beginning with economic development in April.

Staff developed a draft economic development goal action plan (Attachment 1), which was discussed and further refined during the April 1 work session. Since that initial conversation, staff and council have started to implement the actions called out in the plan. Council and staff will review the action plan progress for 2025 Q2 and coordinate on the upcoming 2025 Q3 actions. The topics that will be discussed include the following:

- What additional council actions need to be added to the Q2 list of completed actions?
- What does council need to do or collaborate on for Q3 council actions.
- Are there emerging needs or priorities that need to be added to future quarters?
- Updates on committee assignment work related to economic development.

STAFF RECOMMENDATION

This is a discussion item. Staff are seeking input and confirmation.

ATTACHMENTS

1. Economic Development Goal Action Plan (last updated July 2, 2025)

Council Goal **Action Plan**

ECONOMIC DEVELOPMENT: *Supporting Milwaukie's business districts and investing in neighborhood hubs*

Last Updated: 7/2/2025

Why this goal?

Milwaukie is seeing a resurgence of economic development activity in its downtown and business districts. Inspired by the city's 2040 community vision and comprehensive plan, the city has completed foundational work to enable hubs of commercial amenities across our neighborhoods. As Milwaukie's urban renewal area (URA) and construction excise tax (CET) funds mature, the city has an opportunity in 2025-2027 to make significant investments that can support our local economy, attract and retain businesses, and revitalize our commercial areas to help build community and a sense of place.

What do we want to accomplish by 2027?

- *Revitalized Main Street and Downtown*
- *New investments in Milwaukie's industrial areas*
- *At least one enhanced Neighborhood Hub*
- *Strong city-business partnerships*
- *Capital improvements that support our business districts, including construction underway for Milwaukie Bay Park*

How will we measure success?

	BASELINE *(as of Dec 31 '24)*	*End of 2025*	*End of 2026*	*End of 2027*	*Target*
Dollars invested in direct support for local businesses *$ allocated through business improvement grant programs (URA and CET)* *$ allocated to BIPOC or LGBTQIA+ business owners*	**$328,455** total **$55,000** to BIPOC business owners **$25,955** to LGBTQIA+ business owners				**Minimum $250,000 annually**
Advancement of URA Five-Year Action Plan *% of projects that are complete or in the process.*	**28.4% of projects**				**100% Completion**
External business-related meetings attended *# of meetings, roundtables, and summits attended by City Council members* *# of equity-focused meetings (e.g.)*	**5 meetings** **# equity focused**				**Minimum 12**
Business-related meetings convened by the city *# of meetings, roundtables, and summits convened by staff or City Council members*	**2**				**Minimum 4**
Total number of businesses registered with the city *# of business license holders operating in Milwaukie, excluding landlords/rental properties*	**892 businesses** renewed/predicted to renew in 2025				**Upward trend**
Impressions of business friendliness *% of surveyed business who are happy with the City of Milwaukie's support*	*Need a baseline survey*				**Upward trend**
Events and tourism *# of events produced in Milwaukie by the city or with city support* *# of events that specifically celebrate Milwaukie's diverse communities*	**6 Events Total** **(4 Cultural Events)**				**Minimum of 9 events annually**
Downtown foot traffic *Annual foot traffic counts in the downtown area*	***5,400 average daily visitors***				**Upward trend**
Access to commercial activity and hubs *Housing units within a 1/4-mile walkshed of neighborhoods hubs (does not include downtown)*	***3,250 housing units (33% of units)***				**Upward trend**

Data	Question	Indicator	Commercial Type	2024	2025	2026	2027
Commercial Vacancy Rate	Does Milwaukie and its sub-areas have a healthy vacancy rate?	Vacancy can inform our understanding of demand, with decreasing or low vacancy rates indicating demand for commercial space in Milwaukie and its sub-areas.	Office: Industrial: Retail: DT Retail:	**3.3%** **4.9%** **4.6%** **8.4%**	XXX	XXX	XXX
Commercial Rents	Are rents increasing?	Changes in commercial rents can shed light on the desirability of commercial space. High or increasing lease rates can attract investment in new commercial inventory. Increasing rents can also signal a need to devote additional resources to preserving legacy businesses to counteract market pressures.	Office: Industrial: Retail: DT Retail:	**$1.86** psf **$1.02** psf **$1.48** psf **$1.42** psf	XXX	XXX	XXX
Commercial Inventory	Is commercial inventory growing?	Delivery of new commercial buildings provides space for new business opportunities, as well as mobility for existing businesses who wish to expand or move to more suitable areas of the city.	Office: Industrial: Retail: DT Retail:	**712,304** sf **6,426,385** sf **1,000,323** sf **292,448** sf	XXX	XXX	XXX

Implementation partners

COUNCIL LEAD:
Councilor Rebecca Stavenjord

STAFF LEAD:
- *Joseph Briglio, Assistant City Manager*
- *Ciara Williams, Economic Development coordinator*

SUPPORTING DEPARTMENTS:
- *City Manager's Office*
- *Community Development*
  - *Milwaukie Redevelopment Commission Community Advisory Committee (MRCCAC)*
- *Finance*
- *Public Safety*

EXTERNAL PARTNERS:
- *Downtown Alliance of Milwaukie (DAM)*
- *Business of Milwaukie (BOM)*
- *North Clackamas County Chamber of Commerce (NCCCC)*
- *Neighborhood District Associations (NDAs)*
- *Private Property Owners and Developers*
- *Clackamas Community College*
- *Clackamas Small Business Development Center (SBDC)*
- *Clackamas Workforce Partnership*
- *Micro Enterprise Services of Oregon (MESO)*
- *TiE Oregon*
- *Sabin-Schellenberg*

Action Roadmap

YEAR/ FOCUS	QUARTER	STAFF ACTIONS	COUNCIL ACTIONS
2025 **FOCUS:** Support downtown momentum, engage business districts, and collect better baseline data	**CY-Q2 Apr - Jun**	✓ Hire Economic Development Coordinator ✓ Continue building relationships with DAM, BOM, and NCCCC ✓ Engage businesses in planning for *Milwaukie Fest* ✓ Discuss strategy to engage Milwaukie businesses in all city signature events ✓ **Create a 'public parking' map** ✓ **Quarterly MRCCAC Meeting** ✓ **Issued 8 business grants (16 total and funds are exhausted)** ✓ **Re-Engage Harrison/Main Metro Discussions**	✓ Complete goal action plan ✓ Share updates on committee assignment work related to economic development
	CY – Q3 Jul - Sept	☐ Present and refine scope of Main Street Improvements CIP project ☐ Produce first annual *Milwaukie Fest* ☐ Prepare for launch of business improvement grant program citywide using CET funds, **including storytelling around past grant successes** ☐ **Prep business friendliness survey to coincide with business roundtables** ☐ **Formalize process for requesting and installing bike racks** ☐ **Refine City's economic development webpages** ☐ **Begin conversations internally about the City's brand and marketing strategy**	☐ Identify and send invitations for first round of business engagement tables and survey (URA, North Milwaukie Industrial Area (NMIA), International Way, and neighborhood businesses) ☐ **Provide direction on re-capitalizing the URA grant program** ☐ **Connect with existing business improvement grantees to learn about their experience and build relationships** ☐ Share updates on committee assignment work related to economic development
	CY – Q4 Oct - Dec	☐ Scope planning and economic development work for 2026 related to Neighborhood Hubs and corridor plans ☐ Engage business stakeholders regarding refresh to URA five-year action plan ☐ Initiate market analysis around Neighborhood Hubs ☐ Launch citywide business improvement grant program	☐ Convene first round of business engagement tables ☐ Start refresh of URA 5-year Action Plan with Milwaukie Redevelopment Commission Community Advisory Committee (MRCCAC) ☐ Share updates on committee assignment work related to economic development
	Annual goal review and performance measure data report		
2026 **FOCUS:** Enhance Neighborhood Hubs and support, retain, and attract Milwaukie businesses	**CY – Q1 Jan - Mar**	☐ Present proposed scope for Neighborhood Hubs/corridor planning, economic development, and placemaking work informed by market analysis ☐ Engage businesses to scope changes needed to city's Business Tax code and fees, including education on current investments in business districts ☐ **Revisit Harrison/Main Discussion**	☐ Direct staff on planning, economic development, and placemaking work to support economic development in Neighborhood Hubs and corridors ☐ Select priority Neighborhood Hubs for placemaking investment based on market analysis ☐ Share updates on committee assignment work related to economic development
	CY – Q2 Apr – Jun	☐ Present on transportation enhancements needed to support workforce and business needs (informed by updated Transportation System Plan (TSP) ☐ Propose placemaking investments in priority Hubs ☐ Propose updates to city's Business Tax code and fees through budget process	☐ Plan Annual Business Summit ☐ Complete URA 5-year Action Plan refresh with MRCCAC ☐ Share updates on committee assignment work related to economic development

	CY – Q3 Jul - Sept	☐ Begin construction on Main Street Improvements CIP Project ☐ Implement changes to Business Tax code and prepare for annual business registration cycle in next quarter ☐ Implement placemaking investments in priority Hubs	☐ Explore opportunities for additional URAs to support economic development beyond downtown ☐ Host Annual Business Summit ☐ Share updates on committee assignment work related to economic development
	CY – Q4 Oct - Dec	☐ Continue construction on Main Street Improvements CIP Project ☐ Develop vacant storefront tool kit	☐ Direct staff on 2027 planning/code work to undertake to support economic development ☐ Share updates on committee assignment work related to economic development
2027 **FOCUS:** Institutionalize business support as a core city function	***Annual goal review and performance measure data report***		
	CY – Q1 Jan - Mar	☐ Complete construction on Main Street Improvements CIP Project ☐ Propose second round of placemaking investments in priority Hubs	☐ Champion transportation investments that support economic development ☐ Share updates on committee assignment work related to economic development
	CY – Q2 Apr – Jun	☐ Implement second round of placemaking investments in priority Hubs	☐ Plan Annual Business Summit ☐ Share updates on committee assignment work related to economic development
	CY – Q3 Jul - Sept		☐ Host Annual Business Summit ☐ Share updates on committee assignment work related to economic development
	CY – Q4 Oct - Dec		☐ Report on 3-year Goal progress and provide direction for ongoing operationalization of economic development work ☐ Share updates on committee assignment work related to economic development

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Presentation

Economic Development

2025 Q2 & Q3

SPECIAL SESSION | JULY 8, 2025

Q2 Staff Accomplishments

April - June

Economic Development Coordinator

Hello, again!

DAM, BOM, NCCC

Continue building relationships with DAM, BOM, NCCCC

- **DAM:** 3 steering committee meetings, 1 public meeting (+ parking presentation), 1 meeting with DAM president
- **NCCC:** 4 Friday networking events, 1 meeting between City and NCCC,1 public policy and government affairs meeting.
- **1:1 "Coffee Chats":** Rotary, First Friday, Business Oregon, City of Wilsonville, Home-Based Business Owner

16 engagements

Milwaukie Fest Engagement

Engage businesses in planning for Milwaukie Fest

- **Advisory Committee of Businesses & Residents**
- **Event sponsors**
- **DAM input**
- **Vending opportunities**
- **Pilot Newsletter**
- **Street closure notices**

Signature Events Engagement

Discuss Strategy to engage businesses in all city signature events

- **Meeting between Events, City Management, Communications, and Economic Development**
- **Build upon successes and lessons learned from Milwaukie Fest**

Public Parking Map

DOWNTOWN MILWAUKIE

PUBLIC PARKING

1 **Across From City Hall**
10486 SE Main St.
Duration: **2 hours**
Spaces: **36**

2 **Across From pFriem**
10723 SE Main St.
Duration: **2 hours**
Spaces: **101**

3 **Behind B-Side Records**
10834 SE McLoughlin Blvd.
Duration: **2 hours**
Spaces: **37**

4 **In Front of Henley Place**
10300 SE Main St.
Duration: **4 hours**
Spaces: **70 approx.**
COMING SOON!

PARK & RIDES

SE PARK AVE PARKING GARAGE · ORANGE LINE
2735 SE Park Ave.
Duration: **24 hours**
Spaces: **150+**
Travel Time to Downtown Milwaukie:
2 minutes
Frequency: Every 15 minutes

SE MAIN/MILPORT · BUS 34 LINE
9600 SE Main St.
Duration: **24 hours**
Spaces: **329**
Travel Time to Downtown Milwaukie:
3 minutes
Frequency: Every 60 minutes

MILWAUKIE PRESBYTERIAN CHURCH · BUS 32 LINE
2416 SE Lake Rd.
Duration: **24 hours,Mon - Fri**
Spaces: **29**
Travel Time to Downtown Milwaukie:
3 minutes
Frequency: Every 20 minutes

SE TACOMA/JOHNSON CREEK · ORANGE LINE
8300 SE Johnson Creek Blvd.
Duration: **24 hours**
Spaces: **318**
Travel Time to Downtown Milwaukie:
5 minutes
Frequency: Every 15 minutes

Quarterly MRCCAC Meetings

Amendment to Retroactive grants

Current:

The city will also consider reimbursement grants for eligible activities that after January 1, 2023 occurred and before the launch date of the programs (August 1, 2024).

Proposed:

The city will also consider reimbursement grants for eligible activities within 90 days of project completion.

Discussion Question #1

Anti-Displacement Grant

What it is: Consulting services related to interior and exterior design planning, merchandising, branding, displays, and similar related effects

Who its for: Existing businesses (2+ years)

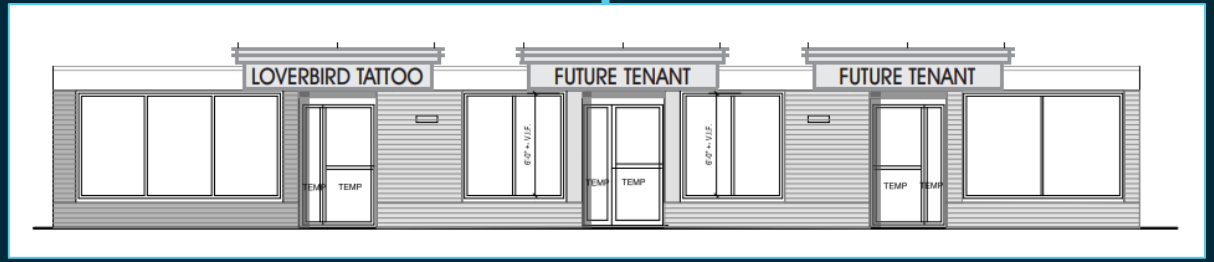
Q How should we market it?
How should we best leverage it?

Grants

8 grants issued in Q2!

Starting Balance		Disbursed		Remaining
$600,000	−	$600,000	=	$0
		19 grants		*3 in the pipeline*

STOREFRONTS

	10951 21st	Good Measure
BEFORE		
PROPOSD		
CURRENT		

Tenant Improvements

Chan's Steakery

Pre-Development

New student drop off & parking

Performance & athletics addition

Early Childcare Center

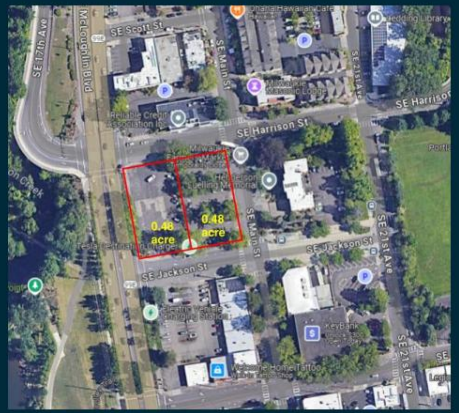
In the Pipeline

- Rexall
- Milwaukie Museum

Harrison/Main Lot

Harrison and Main St. - Council Priorities

- Milwaukie's "front porch" and/or "town square"
- Community events
- Preserve some parking
- Affordable housing



Q3 Staff Plans

July - September

Main Street CIP

Present & Refine Scope of Main Street CIP Projects

1. **Draft Charter (in progress)**
2. **Internal Review**
3. **City Council Feedback**
4. **Strategy of businesses communications**

Milwaukie Fest

Produce First Annual Milwaukie Fest

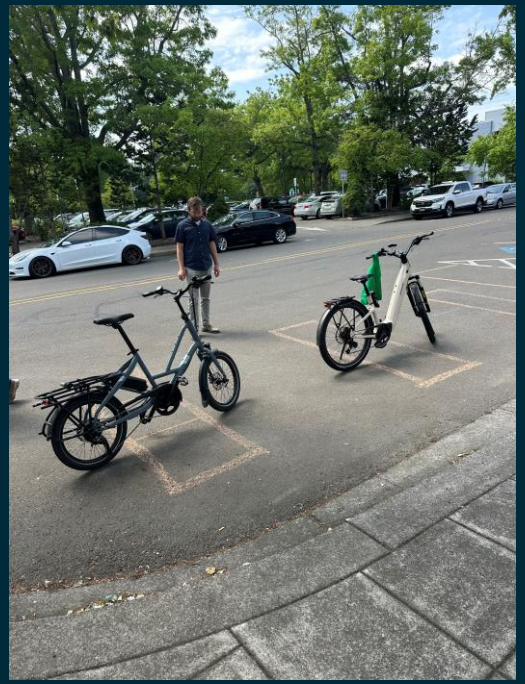
CET Grants

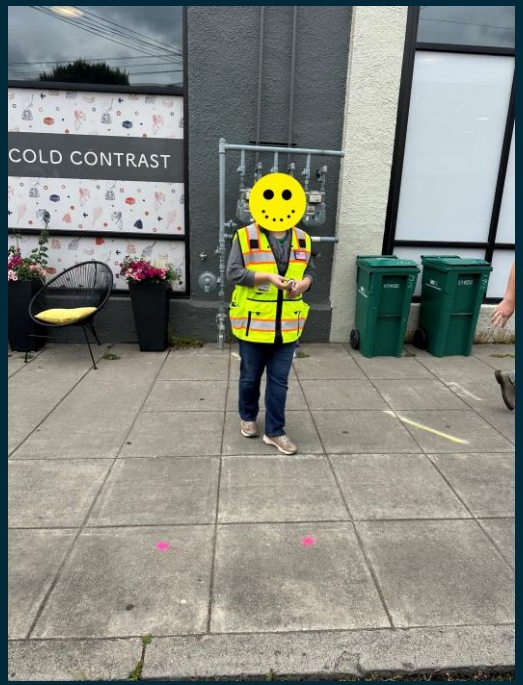
Prepare for Launch of Citywide Grants

- **Budget**
- **Create new grant materials**
- **Update webpage**
- **Pilot article and business newsletter**

Bike Racks

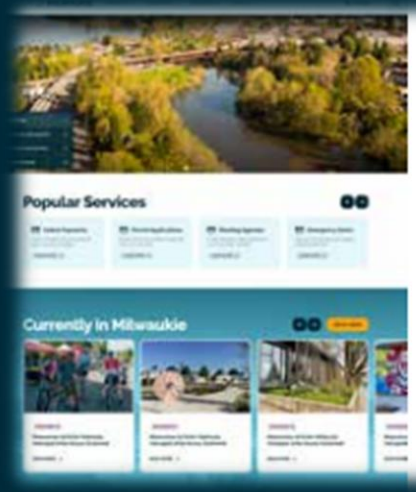
Formalize process for requesting, approving, and installing racks





Webpage Refresh

Refine and update the Economic Development webpages once new website is live



Refreshed City Website Coming Soon

The city is excited to unveil a refreshed website, still at **www.milwaukieoregon.gov**, in early summer 2025. The new website will be easier to navigate, with an improved search function and more intuitive design, to help community members find the information they need more quickly. The city is working with Revize, who specialize in creating innovative government websites. More updates, along with the official launch date, will be announced soon.

Speaking of the website, did you know a digital version of *The Milwaukie Pilot* is published online each month in English and Spanish? Check out this and previous editions at **www.milwaukieoregon.gov/citymanager/city-newsletter-pilot**.

Branding & Marketing

Begin conversation on City's brand and marketing strategy

- **Swag**
- **Business engagement with brand and strategy**

Q4 Staff Preview

October - December

Q4: October - December

- Scope planning and economic development work for 2026 related to **Neighborhood Hubs** and **corridor plans**
- Engage business stakeholders regarding refresh to **URA five-year action plan**
- Initiate **market analysis** around Neighborhood Hubs
- Launch **citywide business improvement grant program**

Q2 Council Accomplishments

April - June

Goal Action Plan

Complete Goal Action Plan

Council Goal **Action Plan**

ECONOMIC DEVELOPMENT: *Supporting Milwaukie's business districts and investing in neighborhood hubs*

Last Updated: 7/2/2025

Why this goal?

Milwaukie is seeing a resurgence of economic development activity in its downtown and business districts. Inspired by the city's 2040 community vision and comprehensive plan, the city has completed foundational work to enable hubs of commercial amenities across our neighborhoods. As Milwaukie's urban renewal area (URA) and construction excise tax (CET) funds mature, the city has an opportunity in 2025-2027 to make significant investments that can support our local economy, attract and retain businesses, and revitalize our commercial areas to help build community and a sense of place.

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- *Capital improvements that support our business districts, including construction underway for Milwaukie Bay Park*

How will we measure success?

	BASELINE (as of Dec 31 '24)	*End of 2025*	*End of 2026*	*End of 2027*	*Target*
Dollars invested in direct support for local businesses *$ allocated through business improvement grant programs (URA and CET)* *$ allocated to BIPOC or LGBTQIA+ business owners*	**$328,455** total **$55,000** to BIPOC business owners **$25,955** to LGBTQIA+ business owners				**Minimum $250,000 annually**
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Q3 Council Plans

July - September

Q3: July – September

- Identify and send invitations for first round of **business engagement tables and survey** (URA, North Milwaukie Industrial Area (NMIA), International Way, and neighborhood businesses)
- Provide direction on **re-capitalizing the URA grant program**
- **Connect with existing business improvement grantees** to learn about their experience and build relationships
- **Share updates** on committee assignment work related to economic development

Q4 Council Preview

October - December

Q4: October - December

- Convene first round of business engagement tables
- Start refresh of URA 5-year Action Plan with Milwaukie Redevelopment Commission Community Advisory Committee (MRCCAC)
- Share updates on committee assignment work related to economic development

CITY OF MILWAUKIE

RS 7. D.
7/8/25

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COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, City Manager

Date Written: June 26, 2025

Reviewed: Joseph Briglio, Assistant City Manager &
Interim Community Development Director

From: Brett Kelver, Senior Planner

Subject: **Annexation of Property at 5706 SE Westfork Street**

ACTION REQUESTED

Council is asked to approve application A-2025-002, an annexation petition, and adopt the attached ordinance and associated findings in support of approval (Attachment 1). Approval of this application would result in the following actions:

- Annexation into the city of 5706 SE Westfork Street (Tax Lot 1S2E30AA06201), the "annexation property."
- Application of a moderate density residential (MD) Comprehensive Plan land use designation and a moderate density residential (R-MD) zoning designation to the annexation property.
- Amendments to the city's Comprehensive Plan land use map and zoning map to reflect the city's new boundary and the annexation property's new land use and zoning designations.
- Withdrawal of the annexation property from the following urban service districts:
    - Clackamas County Service District for Enhanced Law Enforcement
    - Clackamas County Service District #5 for Street Lights

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

July 1990: Clackamas County Order No 90-726 established an urban growth management agreement (UGMA) in which the city and county agreed to coordinate the future delivery of services to the unincorporated areas of north Clackamas County. With respect to Dual Interest Area "A," the agreement states: "The city shall assume a lead role in providing urbanizing services."

January 2010: Council annexed the rights-of-way (ROW) in the Northeast Sewer Extension (NESE) project area making all properties in this area contiguous to the city limits and eligible for annexation (Ordinance #2010).

June 2010: Council approved the first annexation of property in the NESE project area (Ordinance #2016, land use file #A-10-01). Since then, Council has approved the annexation of approximately 174 additional properties in the NESE area. To date, there are approximately 85 properties within the NESE project area that have not yet been annexed.

April 2023: The property owner at 5706 SE Westfork Street approached the city's community development department about connecting to city sewer to initiate the expedited annexation

process and make an emergency connection to the city sewer system. The owner signed a consent to annex form and paid the necessary fees and charges.

ANALYSIS

Proposal

The applicant, Janie Beard, has applied to annex the 11,760-square-foot (0.27-acre) site to the city. The annexation property is developed with a single detached dwelling. It has residential Clackamas County land use and zoning designations and will receive equivalent residential city land use and zoning designations upon annexation.

Site and Vicinity

The annexation property is within the city's UGMA area and is contiguous to the existing city limits along the public ROW of Westfork Street to the north and where adjacent to neighboring properties to the south and west (see Figure 1). The surrounding area consists primarily of other single detached residential dwellings, some in unincorporated Clackamas County and others within the Portland city limits.

Figure 1. Site Map

Annexation Petition

The petition is being processed as an expedited annexation. Under the expedited process, a city land use and zoning designation is automatically applied to the annexation property upon annexation. Any property that is within the UGMA area and contiguous to the city boundary may apply for an expedited annexation so long as all property owners of the area to be annexed and at least 50% of registered voters within the area to be annexed consent to the annexation. Clackamas County has certified that these thresholds are met for the annexation property.

As set forth in Milwaukie Municipal Code (MMC) Table 19.1104.1.E, the expedited annexation process automatically assigns city land use and zoning designations to the annexation property based on the existing Clackamas County land use and zoning designations. The existing county Comprehensive Plan land use designation for the annexation property is low density residential (LDR), which corresponds to the city's moderate density (MD) Comprehensive Plan designation upon annexation. The current county zoning designation for the annexation property is urban low-density residential R-7, which corresponds to a city zoning designation of moderate density residential (R-MD) upon annexation.

Pursuant to city, regional, and state regulations on expedited annexations, all necessary parties, interested persons, and residents and property owners within 400 feet of the site were notified of these proceedings under MMC 19.1103.4.1.C. A public hearing is not required for an expedited annexation; however, Council must adopt an ordinance to implement the annexation.

Annexation Approval Criteria

The annexation application is subject to Milwaukie Comprehensive Plan Section 12 Urban Growth Management, Oregon Revised Statutes (ORS) Chapter 222 City Boundary Changes, Metro Code Chapter 3.09 Local Government Boundary Changes, and MMC Chapter 19.1100 Annexations and Boundary Changes.

Expedited annexations must meet the approval criteria of MMC 19.1102.3. Compliance with the applicable criteria is detailed in Attachment 1 (Exhibit A, Findings).

Utilities, Service Providers, and Service Districts

The city is authorized by ORS 222.120(5) to withdraw the annexation property from non-city service providers and districts upon annexation to the city. This allows for a more unified and efficient delivery of urban services to the newly annexed property and is in keeping with the city's Comprehensive Plan policies relating to annexation.

- Wastewater: The annexation property is within the city's sewer service area and, via an emergency connection allowed in conjunction with the proposed annexation, is served by an 8-inch sewer line accessible in Westfork Street. The sewer line is owned and maintained by Water Environment Services (WES) but is available to serve city properties pursuant to the city's intergovernmental agreement (IGA) with WES.
- Water: The annexation property is currently served by Clackamas River Water (CRW) through an existing CRW water line in Westfork Street. Pursuant to the city's IGA with CRW, water service will continue to be provided by CRW, and the annexation property will not be withdrawn from this district at this time.
- Storm: The annexation property is not connected to a public stormwater system. Treatment and management of on-site stormwater will be required when new development occurs.
- Fire: The annexation property is currently served by Clackamas Fire District #1 and will continue to be served by this fire district upon annexation since the entire city is within this district.
- Police: The annexation property is currently served by the Clackamas County Sheriff's Office and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The city has its own police department, and this department can adequately serve the site. To avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.
- Street Lights: The annexation property is currently within Clackamas County Service District No. 5 for Street Lights. As of July 1, 2011, an IGA between the city and the district transferred operational responsibility to the city for the street lights and street light payments in the city's NESE project area. The annexation property will be withdrawn from the district upon annexation to the city.
- Other Services: Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the site upon annexation. The annexation property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District (NCSD), Vector Control District, and North Clackamas Parks and Recreation District (NCPRD).

BUDGET IMPACTS

This annexation will have minimal fiscal impact on the city. As with most annexations of residential properties, the costs of providing governmental services will likely be offset by the collection of property taxes. According to Clackamas County Assessor data, the total current assessed value of the annexation property is $201,585. Based on the latest information available

(from the Clackamas County Rate Book for 2024, tax code 012-252), total property tax collection of approximately $4,412 is anticipated for the annexation property; the city will be provided with approximately $956 of this total.

WORKLOAD IMPACTS

For most city services, workload impacts from the annexation itself will be minimal and will likely include, but are not limited to, utility billing, provision of general governmental services, and the setting up and maintenance of property records.

CLIMATE IMPACTS

The annexation is not expected to have any impact on the climate. The property is currently developed with a single detached dwelling and redevelopment is not anticipated in the short term.

COORDINATION, CONCURRENCE, OR DISSENT

All city departments, necessary parties, interested persons, and residents and property owners within 400 feet of the annexation property were notified of these proceedings as required by city, regional, and state regulations. The Lewelling Neighborhood District Association (NDA) also received notice of the annexation petition and the Council meeting.

The city did not receive comments from any necessary parties with objections to the proposed annexation.

STAFF RECOMMENDATION

Approve the application and adopt the ordinance and findings in support of approval.

ALTERNATIVES

Council has two decision-making options:

1. Approve the application and adopt the ordinance and findings in support of approval.
2. Deny the application and adopt findings in support of denial.

ATTACHMENTS

1. Annexation Ordinance
   - Exhibit A. Findings in Support of Approval
   - Exhibit B. Legal Description and Annexation Map
2. Annexation Site Map
3. Applicant's Annexation Application

CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, ANNEXING A TRACT OF LAND IDENTIFIED AS TAX LOT 1S2E30AA06201 AND LOCATED AT 5706 SE WESTFORK STREET INTO THE CITY LIMITS OF THE CITY OF MILWAUKIE (FILE #A-2025-002).

WHEREAS the territory proposed for annexation is contiguous to the city's boundary and is within the city's urban growth management area (UGMA); and

WHEREAS the requirements of the Oregon Revised Statutes (ORS) for initiation of the annexation were met by providing written consent from a majority of electors and all owners of land within the territory proposed for annexation; and

WHEREAS the territory proposed for annexation lies within the territory of the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights; and

WHEREAS the annexation and withdrawals are not contested by any necessary party; and

WHEREAS the annexation will promote the timely, orderly, and economic provision of public facilities and services; and

WHEREAS Table 19.1104.1.E of the Milwaukie Municipal Code (MMC) provides for the automatic application of city zoning and comprehensive plan land use designations; and

WHEREAS the city conducted a public meeting and mailed notice of the public meeting as required by law; and

WHEREAS the city prepared and made available an annexation report that addressed all applicable criteria, and, upon consideration of such report, the City Council favors annexation of the tract of land and withdrawal from all applicable districts based on findings and conclusions attached as Exhibit A.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. The Findings in Support of Approval attached as Exhibit A are adopted.

Section 2. The tract of land described and depicted in Exhibit B is annexed to the City of Milwaukie.

Section 3. The tract of land annexed by this ordinance and described in Section 2 is withdrawn from the Clackamas County Service District for Enhanced Law Enforcement and Clackamas County Service District #5 for Street Lights.

Section 4. The tract of land annexed by this ordinance and described in Section 2 is assigned a Comprehensive Plan land use designation of moderate density residential (MD) and a municipal code zoning designation of moderate density residential R-MD.

Section 5. The city will immediately file a copy of this ordinance with Metro and other agencies required by Metro Code Chapter 3.09.030, ORS 222.005, and ORS 222.177. The annexation and withdrawal will become effective upon filing of the annexation records with the Secretary of State as provided by ORS 222.180.

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

_____
Lisa M. Batey, Mayor

ATTEST:

_____
Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:

_____
Justin D. Gericke, City Attorney

EXHIBIT A

FINDINGS IN SUPPORT OF APPROVAL

Based on the staff report for the annexation of 5706 SE Westfork St, the "annexation property," the Milwaukie City Council finds:

1. The annexation property consists of one tax lot comprising 0.27 acres (tax lot 1S2E30AA06201). The annexation property is contiguous to the existing city limits along the public right-of-way (ROW) of Westfork Street to the north and where adjacent to neighboring properties to the south and west. The annexation property is within the regional urban growth boundary and also within the city's urban growth management area (UGMA).

   The annexation property is developed with a single detached dwelling and accessory structure. The surrounding area consists primarily of other single detached residential dwellings, some in unincorporated Clackamas County and others within the Portland city limits.

2. The current owner of the annexation property seeks annexation to the city to access city services, namely sewer service.

3. The annexation petition was initiated by consent of all owners of land on April 24, 2025, with an application for annexation submitted to the city that same day. It meets the requirements for initiation set forth in ORS 222.125, Metro Code Section 3.09.040, and Milwaukie Municipal Code (MMC) Subsections 19.1104.1.A.3 and 19.1102.2.C.

4. The annexation petition was processed and public notice was provided in accordance with ORS Section 222.125, Metro Code Section 3.09.045, and MMC 19.1104. The annexation petition is being processed as an expedited annexation at the request of the property owner. It meets the expedited annexation procedural requirements set forth in MMC Section 19.1104.

5. The expedited annexation process provides for automatic application of city comprehensive plan land use and zoning designations to the annexation property based on their existing comprehensive plan land use and zoning designations in the county, which are urban low density residential (LDR) and residential R-7, respectively. Pursuant to MMC Table 19.1104.1.E, the automatic city comprehensive plan land use and zoning designations for the annexation property are both moderate density residential, MD and R-MD, respectively.

6. The applicable city approval criteria for expedited annexations are contained in MMC 19.1102.3. They are listed below with findings in italics.

   A. The subject site must be located within the city's urban growth boundary (UGB);

      The annexation property is within the regional UGB and within the city's UGMA.

B. The subject site must be contiguous to the existing city limits;

The annexation property is contiguous to the existing city limits along the public right-of-way (ROW) of Westfork Street to the north and where adjacent to neighboring properties to the south and west.

C. The requirements of Oregon Revised Statutes for initiation of the annexation process must be met;

Janice Beard, the current property owner, consented to the annexation by signing the petition and is the only registered voter for the annexation property. As submitted, the annexation petition meets the Oregon Revised Statutes requirements for initiation pursuant to the "Consent of All Owners of Land" initiation method, which requires consent by all property owners and a majority of the electors, if any, residing in the annexation territory.

D. The proposal must be consistent with Milwaukie Comprehensive Plan policies;

Section 12 of the comprehensive plan contains the city's annexation policies. Applicable annexation policies include: (1) prioritizing annexation of properties that are surrounded by land within the incorporated city limits and (2) requiring annexation in order to receive a city service. With annexation, the city will take over most urban service provision for the property. Through an intergovernmental agreement (IGA) between the city and Water Environment Services (WES), WES provides wastewater collection with the existing sewer line in Westfork Street. City services to be provided include stormwater management, police protection, and general governmental services. As proposed, the annexation is consistent with applicable comprehensive plan policies.

E. The proposal must comply with the criteria of Metro Code Sections 3.09.045(d) and, if applicable, (e).

The annexation proposal is consistent with applicable Metro code sections for expedited annexations as detailed in Finding 7.

F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

The annexation would add new territory within the city limits, and the new territory must be designated on both the zoning map and the comprehensive plan map for land use. These additions effectively constitute amendments to the zoning and comprehensive plan land use maps.

The approval criteria for zoning map amendments and comprehensive plan amendments are provided in MMC 19.902.6.B and 19.902.4.B, respectively. Collectively, the criteria address issues such as compatibility with the surrounding area, being in the public interest and satisfying the public need, adequacy of public facilities, consistency with transportation system capacity, consistency with goals and policies of the Milwaukie Comprehensive Plan and relevant Metro plans and policies, and consistency with relevant State statutes and administrative rules.

MMC Table 19.1104.1.E establishes automatic zoning map and comprehensive plan land use map designations for expedited annexations. If a proposed designation is consistent with the table, it is consistent with the various applicable plans and policies.

In the case of the proposed annexation, the annexation property will assume the zoning and comprehensive plan designations provided in MMC Table 19.1104.1.E, which are R-MD and moderate density residential, respectively. The approval criteria for both proposed amendments are effectively met.

7. Prior to approving an expedited annexation, the city must apply the provisions contained in Section 3.09.045.D of the Metro Code. They are listed below with findings in italics.

   A. Find that the change is consistent with expressly applicable provisions in:

      (1) Any applicable urban service agreement adopted pursuant to ORS 195.065;

      There is one applicable urban service agreement adopted pursuant to ORS 195 in the area of the proposed annexation (see Finding 8, Street lights). The city has an UGMA agreement with Clackamas County that states that the city will take the lead in providing urban services in the area of the proposed annexation. The proposed annexation is in keeping with the city's policy of encouraging properties within the UGMA to annex to the city.

      The city has an intergovernmental agreement with WES regarding wholesale rates for wastewater treatment, but that agreement does not address issues related to annexations.

      (2) Any applicable annexation plan adopted pursuant to ORS 195.205;

      There are no applicable annexation plans adopted pursuant to ORS 195 in the area of the proposed annexation.

      (3) Any applicable cooperative planning agreement adopted pursuant to ORS 195.020 (2) between the affected entity and a necessary party;

      There are no applicable cooperative planning agreements adopted pursuant to ORS 195 in the area of the proposed annexation.

      (4) Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;

      Clackamas County completed a North Clackamas Urban Area Public Facilities Plan in 1989 in compliance with Goal 11 of the Land Conservation and Development Commission for coordination of adequate public facilities and services. The city subsequently adopted this plan as an ancillary comprehensive plan document. The plan contains four elements:

      - *Sanitary Sewerage Services*
      - *Storm Drainage*
      - *Transportation Element*
      - *Water Systems*

      The proposed annexation is consistent with the four elements of this plan as follows:

      <u>Wastewater</u>: The city is the identified sewer service provider in the area of the proposed

annexation and collaborates with WES, which maintains a public sewer system that can adequately serve the annexation property via an 8-inch sewer line accessible in Westfork Street.

<u>Storm</u>: The annexation property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

<u>Transportation</u>: Access is provided to the annexation property via the public ROW of Westfork Street, a local street, the south side of which is maintained by the city. The city may require public street improvements along the annexation property's frontage when new development occurs.

<u>Water</u>: Clackamas River Water (CRW) is the identified water service provider in this plan. However, the city's more recent UGMA agreement with the county identifies the city as the lead urban service provider in the area of the proposed annexation. The city's water service master plan for all of the territory within its UGMA addresses the need to prepare for future demand and coordinate service provision changes with CRW. As per the city's IGA with CRW, CRW will continue to provide water service to the annexation property through its existing water line in Westfork Street.

(5) Any applicable comprehensive plan.

The proposed annexation is consistent with the Milwaukie Comprehensive Plan, which is more fully described on the previous pages. The Clackamas County Comprehensive Plan contains no specific language regarding city annexations. The comprehensive plans, however, contain the city-county UGMA agreement, which identifies the area of the proposed annexation as being within the city's UGMA. The UGMA agreement requires that the city notify the county of proposed annexations, which the city has done. The agreement also calls for city assumption of jurisdiction of local streets that are adjacent to newly annexed areas. The city has already annexed and provides maintenance for the public ROW in the southern half of Westfork Street adjacent to the annexation property.

B. Consider whether the boundary change would:

(1) Promote the timely, orderly, and economic provision of public facilities and services;

With annexation, the city will be the primary urban service provider in the area of the proposed annexation, and the annexation will facilitate the timely, orderly, and economic provision of urban services to the annexation property.

Public sewer service is available in this area via an 8-inch sewer line in Westfork Street. The sewer line is owned and maintained by WES but is available to city properties pursuant to the city's IGA with WES.

(2) Affect the quality and quantity of urban services; and

The annexation property consists of one tax lot developed with a detached single dwelling. Annexation of the site is not expected to affect the quality or quantity of urban services in

this area, given the surrounding level of urban development and the existing level of urban service provision in this area.

(3) Eliminate or avoid unnecessary duplication of facilities and services.

Upon annexation, the annexation property will be served by the Milwaukie Police Department. To avoid duplication of law enforcement services, the site will be withdrawn from the Clackamas County Service District for Enhanced Law Enforcement upon annexation.

8. The City is authorized by ORS Section 222.120(5) to withdraw annexed territory from non-City service providers and districts upon annexation of the territory to the city. This allows for more unified and efficient delivery of urban services to newly annexed properties and is in keeping with the City's comprehensive plan policies relating to annexation.

   Wastewater: The annexation property is within the city's sewer service area and, via an emergency connection allowed in conjunction with the proposed annexation, is served by WES's 8-inch sewer line in Westfork Street. The sewer line is owned and maintained by WES but is available to serve city properties pursuant to the city's IGA with WES.

   Water: The annexation property is currently served by CRW through an existing CRW water line in Westfork Street. Pursuant to the city's IGA with CRW, water service will continue to be provided by CRW and the annexation property will not be withdrawn from this district at this time.

   Storm: The annexation property is not connected to a public storm water system. Treatment and management of on-site storm water will be required when new development occurs.

   Fire: The annexation property is currently served by Clackamas Fire District #1 and will continue to be served by this fire district upon annexation, since the entire city is within this district.

   Police: The annexation property is currently served by the Clackamas County Sheriff's Department and is within the Clackamas County Service District for Enhanced Law Enforcement, which provides additional police protection to the area. The City has its own police department, and this department can adequately serve the site. In order to avoid duplication of services, the site will be withdrawn from this district upon annexation to the city.

   Street Lights: The annexation property is currently within Clackamas County Service District No. 5 for Street Lights. As of July 1, 2011, an IGA between the city and this district transferred operational responsibility to the city for the street lights and street light payments in the city's northeast sewer extension project area. The annexation property will be withdrawn from this district upon annexation to the city.

   Other Services: Community development, public works, planning, building, engineering, code enforcement, and other municipal services are available through the city and will be available to the site upon annexation. The annexation property will continue to receive services and remain within the boundaries of certain regional and county service providers, such as TriMet, North Clackamas School District, Vector Control District, and North Clackamas Parks and Recreation District.

EXHIBIT B

Annexation to the City of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-2025-002

Property Address: 5706 SE Westfork St, Portland, OR 97206

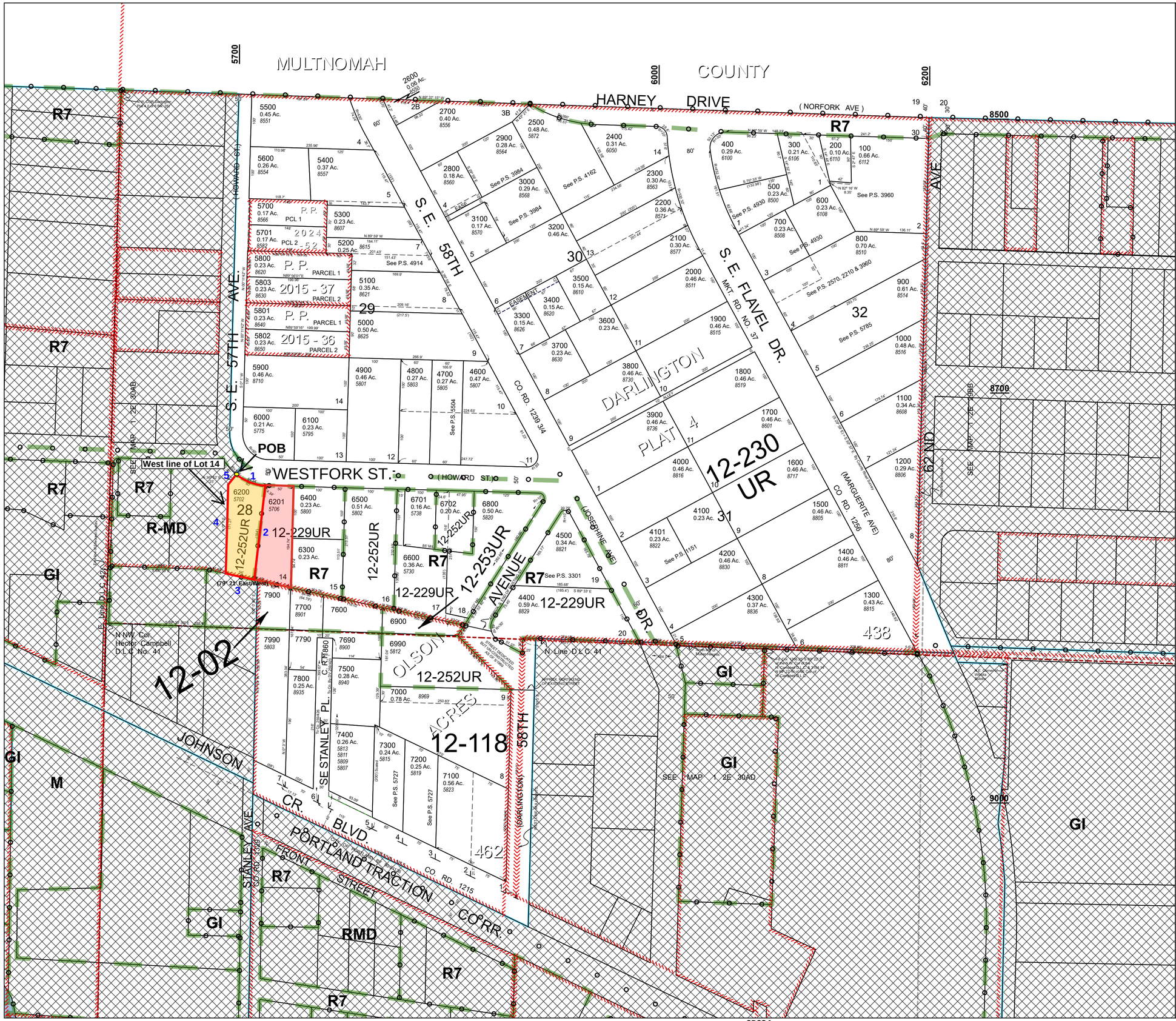
Tax Lot Description: 1S2E30AA06201

Legal Description: IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, Lot 14, Block 28, DARLINGTON PLAT 4 (Plat No. 438).

EXCEPTING THEREFROM the following:

Within the N.E. 1/4 N.E. 1/4, Sec. 30, T.1S, R.2E W.M., Beginning at the Northwest corner of said Lot 14; thence Southeasterly along the southerly line of Howard Street *[renamed Westfork Street]* a distance of 60 feet; thence Southwesterly a distance of 184 feet to a point on the southerly line of said Lot 14 which bears South 79° 21' East along said southerly line a distance of 56 feet from the southwest corner of said Lot 14; thence North 79° 21' West 56 feet to the southwest corner of said Lot 14; thence North along the west line of said Lot 14, a distance of 171.27 feet to an exterior angle corner in the west line of said Lot 14; thence, Northeasterly along the westerly line of said Lot 14 a distance of 25 feet to the point of beginning.

EXHIBIT B



1 2E 30AA

N.E.1/4 N.E.1/4 SEC.30 T.1S. R.2E. W. M.
CLACKAMAS COUNTY

1" = 100'

D. L. C.
HECTOR CAMPBELL NO. 41

Cancelled Numbers
6700

Annexation property

Area of exclusion from Lot 14
(to describe annexation property)

Point of Beginning (POB)
(NW corner of Lot 14, Block 28, Darlington Plat 4)

1 = Southeasterly 60 ft along southerly line of Howard Street [renamed Westfork Street]

2 = Southwesterly a distance of 184 feet to a point on southerly line of Lot 14 which bears South 79° 21' East along said southerly line a distance of 56 ft from SW corner of Lot 14

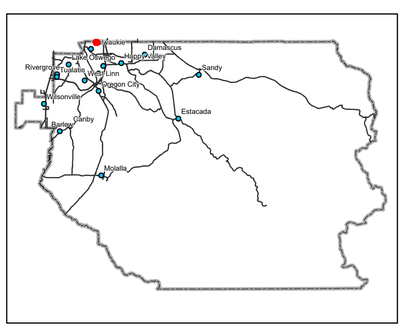
3 = North 79° 21' West 56 ft to SW corner of Lot 14

4 = North along west line of Lot 14, 171.27 ft to exterior angle corner in west line of Lot 14

5 = Northeasterly along westerly line of Lot 14 a distance of 25 feet to POB

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'

N W E S



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

1 2E 30AA

Print Date: 4/1/2025

SPS34

Location Map
5706 SE Westfork St
(Tax ID = 1S2E30AA, lot 6201)
File #A-2025-002

North

0 50 100 200 300 400 Feet

SPS35

Legend

- A-2025-002 site
- 400-ft public notice boundary
- City Limit
- Properties receiving notice (Milwaukie)
- Properties receiving notice (unincorporated)
- Other tax lots (Milwaukie)
- Other tax lots (unincorporated)

MILWAUKIE PLANNING
6101 SE Johnson Creek Blvd
Milwaukie OR 97206
503.786.7630
planning@milwaukieoregon.gov

Expedited Annexation Application

File # A-2025-002

RESPONSIBLE PARTIES:

APPLICANT (owner or other eligible applicant): Janice E. Beard, OR.

Mailing address: 5706 S.E. Westfork St. Portland Zip: 97206

Phone(s): 503-775-3137 Email: Janicebeard@comcast.net

APPLICANT'S REPRESENTATIVE (if different than above):

Mailing address: Zip:

Phone(s): Email:

SITE INFORMATION:

Address(es): 5706 SE Westfork St Map & Tax Lot(s): 1S2E30AA06201

Existing County zoning: ··· R7 Proposed City zoning: R-MD Property size: 0.27 ··· acres

Existing County land use designation: ··· LDR Proposed City land use designation: Low Density (LD)

PROPOSAL (describe briefly):

LIST OF ALL CURRENT UTILITY PROVIDERS:

Check all that apply (do not list water or sewer service providers)

Cable, internet, and/or phone:	☒ Comcast	☒ CenturyLink	
Energy:	☒ PGE	☐ NW Natural Gas	
Garbage hauler:	☐ Waste Management	☒ Hoodview Disposal and Recycling	
	☐ Wichita Sanitary	☐ Oak Grove Disposal	☐ Clackamas Garbage

☐ **Other (please list):**

SIGNATURE: Janice E. Beard

ATTEST: I am the property owner, or I am eligible to initiate this application per Milwaukie Municipal Code (MMC) Subsection 19.1001.6.A. I have attached all owners' and voters' authorizations to submit this application. I understand that uses or structures that were not legally established in the County are not made legal upon annexation to the City. To the best of my knowledge, the information provided within this application package is complete and accurate.

Submitted by: Janice E. Beard Date: 4-24-25

CONTINUED ON REVERSE

RESET

THIS SECTION FOR OFFICE USE ONLY:

File #: A-2025-002 **Fee: $** 150	**Receipt #:**	**Recd. by:**	**Date stamp:**
Associated application file #'s:			Materials submitted 4/24/2025
Neighborhood District Association(s): Lewulling			
Notes (include discount if any): Expedited annexation for emergency connection to sewer.			Payment received 4/28/2025

EXPEDITED ANNEXATION
PETITION OF OWNERS OF 100% OF LAND AREA
AND PETITION OF AT LEAST 50% OF REGISTERED VOTERS

TO: **The Council of the City of Milwaukie, Oregon**

RE: **Petition for Annexation to the City of Milwaukie, Oregon**

We, the petitioners (listed on reverse), are property owners of and/or registered voters in the territory described below. We hereby petition for, and give our consent to, annexation of this territory to the City of Milwaukie.

This petition includes a request for the City to assign a zoning and land use designation to the territory that is based on the territory's current zoning designation in the County, pursuant to the City's expedited annexation process.

The territory to be annexed is described as follows:

(Insert legal description below OR attach it as Exhibit "A")

See Exhibit "A"

PETITION SIGNERS

NOTE: This petition may be signed by qualified persons even though they may not know their property description or voter precinct number.

*PO = Property Owner RV = Registered Voter OV = Owner and Registered Voter

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	
Janice E Beard	JANICE E. Beard			✓	4/24/2025

PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	
5706 SE Westfork St	1S	2E	30AA	6201	420

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	

PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	

PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	

PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	

PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

SIGNATURE	PRINTED NAME	I AM A:*			DATE
		PO	RV	OV	

PROPERTY ADDRESS	PROPERTY DESCRIPTION				VOTER PRECINCT #
	TOWNSHIP	RANGE	¼ SEC.	LOT #(S)	

150

FORM No. 633—WARRANTY DEED

9-311 Exhibit 'A'

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

SS

KNOW ALL MEN BY THESE PRESENTS, That JAMES C. VAN DAMME AND DARLA VAN DAMME HUSBAND AND WIFE *, hereinafter called the grantor, in consideration of* Eleven-thousand nine hundred and fifty and no/100------- *Dollars, to grantor paid by* KENNETH D. BEARD AND JANICE E. BEARD HUSBAND AND WIFE *, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of* CLACKAMAS *and State of Oregon, described as follows, to-wit:*

CLACKAMAS COUNTY APR 28 2025 COUNTY ASSESSOR

IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON:

Lot 14, Block 28, DARLINGTON PLAT 4.

EXCEPTING THEREFROM the following:

Beginning at the northwest corner of said Lot 14; thence Southeasterly along the southerly line of Howard Street a distance of 60 feet; thence Southwesterly to a point on the southerly line of said Lot 14 which bears South 79° 21' East along said southerly line a distance of 56 feet from the southwest corner of said Lot 14; thence North 79° 21' West 56 feet to the southwest corner of said Lot 14; thence North along the west line of said Lot 14, a distance of 171.27 feet to an exterior angle corner in the west line of said Lot 14; thence Northeasterly along the westerly line of said Lot 14 to the point of beginning.

Recorded By Pioneer National Title Insurance Company

To Have and to Hold the above described and granted premises unto the said grantee and grantee's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances EXCEPT Restrictions in deed from Joseph A. Strowbridge Estate Company, a corporation, to William Peisley and Alvina L. Peisley, husband and wife, recorded March 17, 1923, in Book 169, page 627, Deed records. *and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever.*

In construing this deed and where the context so requires, the singular includes the plural.

WITNESS grantor's hand this 15 *day of* May *, 19* 69

James C. Van Damme

Darla Van Damme

(ORS 93.490)

STATE OF OREGON, County of CLACKAMAS *) ss.* MAY 15 *, 19* 69

Personally appeared the above named James C. Van Damme and Darla Van Damme

and acknowledged the foregoing instrument to be their *voluntary act and deed.*

Before me: Victor K Rose

Notary Public for Oregon

My commission expires December 5, 1970

(OFFICIAL SEAL)

WARRANTY DEED

JAMES C. VAN DAMME
DARLA J. VAN DAMME

TO

KENNETH D. BEARD
JANICE E. BEARD

AFTER RECORDING RETURN TO

No.

STATE OF OREGON, County of Clackamas } ss.

I, George D. Poppen, County Clerk, Ex-Officio Recorder of Conveyances and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for the County of Clackamas do hereby certify that the within instrument of writing was received for and recorded in the records of

DEED

2:20 P.M. 23 PM 4 11

RECORDER OF CONVEYANCES

In Book

Witness my hand and seal affixed

GEORGE D. POPPEN
County Clerk

CLACKAMAS COUNTY

Deputy

Recording Certificate

69 9441

EXHIBIT A

Annexation to the City of Milwaukie
LEGAL DESCRIPTION

Milwaukie Annexation File No. A-2025-002

Property Address:	5706 SE Westfork St, Portland, OR 97206
Tax Lot Description:	1S2E30AA06201
Legal Description:	IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, Lot 14, Block 28, DARLINGTON PLAT 4 (Plat No. 438).

EXCEPTING THEREFROM the following:

Within the N.E. 1/4 N.E. 1/4, Sec. 30, T.1S, R.2E W.M., Beginning at the Northwest corner of said Lot 14; thence Southeasterly along the southerly line of Howard Street *[renamed Westfork Street]* a distance of 60 feet; thence Southwesterly a distance of 184 feet to a point on the southerly line of said Lot 14 which bears South 79° 21' East along said southerly line a distance of 56 feet from the southwest corner of said Lot 14; thence North 79° 21' West 56 feet to the southwest corner of said Lot 14; thence North along the west line of said Lot 14, a distance of 171.27 feet to an exterior angle corner in the west line of said Lot 14; thence, Northeasterly along the westerly line of said Lot 14 a distance of 25 feet to the point of beginning.

EXHIBIT B

1 2E 30AA

N.E.1/4 N.E.1/4 SEC.30 T.1S. R.2E. W. M.
CLACKAMAS COUNTY

1" = 100'

D. L. C.
HECTOR CAMPBELL NO. 41

Cancelled Numbers
6700

Annexation property

Area of exclusion from Lot 14
(to describe annexation property)

Point of Beginning (POB)
(NW corner of Lot 14, Block 28, Darlington Plat 4)

1 = Southeasterly 60 ft along southerly line of Howard Street [renamed Westfork Street]

2 = Southwesterly a distance of 184 feet to a point on southerly line of Lot 14 which bears South 79° 21' East along said southerly line a distance of 56 ft from SW corner of Lot 14

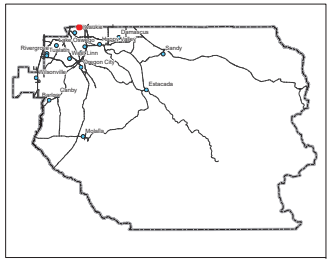
3 = North 79° 21' West 56 ft to SW corner of Lot 14

4 = North along west line of Lot 14, 171.27 ft to exterior angle corner in west line of Lot 14

5 = Northeasterly along westerly line of Lot 14 a distance of 25 feet to POB

Parcel Boundary
Private Road ROW
Historical Boundary
Railroad Centerline
Tax Code Lines
Map Index
Water Lines
Land Use Zoning
Plats
Water
Corner
Section Corner
1/16th Line
Govt Lot Line
DLC Line
Meander Line
PLSS Section Line
Historic Corridor 40'
Historic Corridor 20'

N
W
E
S



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY

1 2E 30AA

Print Date: 4/1/2025

CERTIFICATION OF LEGAL DESCRIPTION AND MAP

I hereby certify that the description of the territory included within the attached petition (located on Assessor's Map ~~T3S1E~~ 1S2E30AA) has been checked by me. It is a true and exact description of the territory under consideration and corresponds to the attached map indicating the territory under consideration.

RECEIVED CLACKAMAS
APR 28 2025
COUNTY ASSESSOR

Name Terry Donovan

Title GIS Cartographer 3

Department A&T

County of Clackamas

Date 4/28/25

CERTIFICATION OF PROPERTY OWNERSHIP OF 100% OF LAND AREA

I hereby certify that the attached petition contains the names of the owners[1] (as shown on the last available complete assessment roll) of 100% of the land area of the territory proposed for annexation as described in the attached petition.

RECEIVED CLACKAMAS APR 28 2025 COUNTY ASSESSOR

Name Terry Donovan

Title GIS Cartographer 3

Department A&T

County of Clackamas

Date 4/28/25

[1] Owner means the legal owner of record or, where there is a recorded land contract which is in force, the purchaser thereunder. If a parcel of land has multiple owners, each consenting owner shall be counted as a percentage of their ownership interest in the land. That same percentage shall be applied to the parcel's land mass and assessed value for purposes of the consent petition. If a corporation owns land in territory proposed to be annexed, the corporation shall be considered the individual owner of that land.

CERTIFICATION OF REGISTERED VOTERS

I hereby certify that the attached petition contains the names of at least 50% of the electors registered in the territory proposed for annexation as described in the attached petition.

Name JUSTIN LARSEN

Title Elections Manager

Department County Clerk

County of Clackamas

Date 4/21/2025

NOTICE LIST

(This form is NOT the petition)

LIST THE NAMES AND ADDRESSES OF ALL PROPERTY OWNERS AND REGISTERED VOTERS IN THE TERRITORY PROPOSED FOR ANNEXATION.

	Name of Owner/Voter	Mailing Street Address Mailing City/State/Zip	Property Address Property Description (township, range, ¼ section, and tax lot)
1	Janice E. Beard	5706 SE Westhark St Portland, OR 97206	5706 SE Westhark St 1S2E30AA06201
2			
3			
4			
5			
6			
7			
8			
9			
10			

EXPEDITED ANNEXATION CODE EXCERPTS

MILWAUKIE MUNICIPAL CODE SECTIONS

19.1104.1 Expedited Process

A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.

5. Approval criteria for annexations are found in subsection 19.1102.3.

19.1102.3 Annexation Approval Criteria. The city council shall approve or deny an annexation proposal based on findings and conclusions addressing the following criteria.

A. The subject site must be located within the city urban growth boundary;

B. The subject site must be contiguous to the existing city limits;

C. The requirements of the Oregon Revised Statutes for initiation of the annexation process must be met;

D. The proposal must be consistent with Milwaukie comprehensive plan policies;

E. The proposal must comply with the criteria of Metro Code Sections 3.09.050(d) and, if applicable, (e).

F. The proposal must comply with the criteria of Section 19.902 for Zoning Map Amendments and Comprehensive Plan Map Amendments, if applicable.

METRO CODE SECTIONS

3.09.050 Hearing & Decision Requirements for Decisions Other Than Expedited Decisions.

(d) To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of Section 3.09.045.

MILWAUKIE COMPREHENSIVE PLAN

Section 12: Urban Growth Management Goals and Policies

Overarching Section Goal: Coordinate future urban growth, development, and provision of City services in an equitable, cost-effective, and sustainable manner in cooperation with regional partners.

Goal 12.4: Annexation

Annex lands within the Milwaukie Planning Area.

Applicant Response

The proposal meets all the applicable requirements listed above.

X Janice E. Beard

(Signature)

SPS Agenda Item 8

Public Hearings

CITY OF MILWAUKIE

RS 8. 1.
7/8/25

OCR USE ONLY

COUNCIL STAFF REPORT

To: Mayor and City Council
Emma Sagor, City Manager

Date Written: June 26, 2025

Reviewed: Joseph Briglio, Assistant City Manager &
Interim Community Development Director

From: Laura Weigel, Planning Manager, and
Brett Kelver, Senior Planner

Subject: **Natural Resources Code Update (file #ZA-2025-001)**

ACTION REQUESTED

Council is asked to adopt amendments to the natural resources regulations established in Milwaukie Municipal Code (MMC) Section 19.402 and related sections.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

August 18, 2020**:** Council adopted the 2040 Comprehensive Plan, including many goals and policies regarding natural resources and environmental quality.

September 19, 2023**:** Council reviewed the staff approach to needed amendments to the natural resource regulations in the zoning code.

Staff also discussed the approach with the Planning Commission during three work sessions:

- April 9, 2024
- July 9, 2024
- September 10, 2024

November 19, 2024: Council received a work session update in preparation for the upcoming code update.

April 22, 2025**:** Planning Commission held a public hearing and recommended approval of the proposed amendments to MMC Section 19.402 in land use file #ZA-2025-001.

May 20, 2025: Council held a public hearing to consider the proposed amendments and continued the hearing to allow time to address a particular issue.

ANALYSIS

The staff report from the May 20 regular session provides a more complete analysis of this project. This analysis focuses on the outstanding issue of establishing an exemption to allow limited disturbance to water quality resource (WQR) areas for benches and similar outdoor furniture.

Review of proposed exemption

For the May 20 hearing, staff had drafted a simple exemption to allow for the installation of benches and similar outdoor furniture in WQR areas. That proposal limited the exemption to public property and where the installation involved minimal new impervious surface (maximum of three (3) square feet). The Council discussion clarified that the allowance would

not apply to the intended site (the Minthorn Springs property, which is owned by the Wetland Conservancy) and raised concerns over the very small area of disturbance. Council agreed to continue the hearing to allow staff time to explore the issue further.

After additional review and consideration, staff are proposing language that would extend the exemption to all WQR properties (whether public or private) but would limit it more specifically to uncovered seating apparatus such as benches. (The language is in Subsection 19.402.4.A.8.)

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees ~~of~~ larger than 6-in diameter <u>at breast height (DBH)</u> or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland. <u>This exemption extends to the installation of benches, chairs, and similar unsheltered sitting apparatus within 30 ft or less of the top of bank or within 50 ft or less of the edge of a wetland, provided that the installation involves no more than 4 sq ft of disturbance per apparatus and that no more than one bench or sitting apparatus is installed per 100 lineal feet along the top of bank or edge of wetland. All temporary disturbances must be restored.</u>

Tying the exemption to properties that allow public access would present the problems of defining "public access" (e.g., is a formal public access easement required?) and tracking any changes to accessibility (e.g., a property owner revokes the right of public access at some point after installing a bench). Since the effort is to allow very minor disturbances for the purpose of allowing people to passively experience and enjoy the protected resources, it seems fair to extend the exemption to all WQR properties.

The revised proposal would limit disturbance to no more than four (4) square feet. After reviewing the dimensions of existing benches at several locations, staff concluded that one (1) to two (2) square feet seems adequate to anchor one side of a bench (depending on whether it has one or two anchor points), and the point is to allow very little disturbance so close to streambanks and wetlands. By specifying that the exemption is for sitting apparatus (benches, chairs, supported hammocks, etc.) and that the seating must be uncovered, the revised language would allow a reasonable opportunity to get closer to the resource within a minimal footprint of disturbance.

In addition, staff reintroduced an idea presented to the Planning Commission to limit the number of these new intrusions based on a linear measurement (that proposal was two pieces of outdoor furniture per 100 lineal feet along the top of bank or edge of wetland). The commission had pushed back on the concept in part because of the impression that the existing benches and tables at Kellogg Creek Park (between the wastewater treatment plant and the river) would not meet that standard but do seem appropriate for that site. Staff assert that the exemption is intended to make it easier to install a small seating apparatus with minimal impact without the need for an extensive (and potentially expensive) review process. The provision of amenities in a park-type space is an activity that could reasonably be expected to warrant some formal review—locating a single bench along a short stretch of streambank or wetland edge is the kind of thing that should be easy. If property owners wish to install more benches or a small, covered structure along the top of bank, the standard review process remains available.

Additional clarification for tree code

In the process of finalizing the proposed amendments, staff recognized an opportunity for one small addition to language in the tree code related to public trees (i.e., trees that are on property owned or maintained by the city) that is intended to highlight the connection between the tree code and the natural resource code. That proposed change is in Subsection 16.32.026.A.2 (Applicability):

2. For public trees, this chapter will be applied in conjunction with any applicable standards in Title 19 Zoning, including those of Section 19.402 Natural Resources.

Note that the portions of the proposed code amendments that are new or revised from the May 20 version are shown in yellow highlighting in Attachments 1-B and 1-C.

BUDGET IMPACT

The proposed amendments will not have a direct impact on the city budget.

WORKLOAD IMPACT

Impacts from the natural resource code update, including post-adoption implementation, have been accounted for in the department work program.

CLIMATE IMPACT

The city's natural resource protections help preserve, restore, and enhance tree canopy and other vegetation in riparian and wetland areas. These features play a vital role in absorbing carbon, mitigating urban heat, managing stormwater, and improving air quality, all of which are critical for climate resilience. Updating the existing regulations will ensure that adequate protections remain in effect and strengthen the city's climate resilience.

EQUITY IMPACT

The natural resource protections apply to properties that include or are within a certain distance of a mapped WQR or HCA. Issues of race, ethnicity, gender identity, socioeconomic status, able-bodied-ness, and other like considerations do not factor directly into the establishment or implementation of the rules. However, where development projects are not able to meet established clear and objective standards and may require costly analyses and expert consultants, there could be a disproportionate impact on WQR/HCA property owners with limited financial means.

COORDINATION, CONCURRENCE, OR DISSENT

Planning staff have coordinated with the engineering and building departments on this project and have consulted with the city attorney. The Planning Commission held a public hearing on April 22, 2025, and voted unanimously to forward a recommendation of approval of the proposed amendments to Council.

STAFF RECOMMENDATION

Council should vote to adopt the proposed amendments to MMC 19.402 and related code sections.

ALTERNATIVES

Council could decide to:

1. Adopt the amendments as proposed.
2. Adopt the proposed amendments with adjustments based on Council discussion.
3. Continue the hearing for further discussion.
4. Decide not to adopt any amendments to MMC 19.402.

ATTACHMENTS

1. Proposed ordinance for adoption
   A. Exhibit A. Recommended findings in support of approval
   B. Exhibit B. Proposed amendments to MMC Section 19.402 and other related sections (~~strikeout~~/<u>underline</u> version) *(Changes from May 20 version are highlighted in yellow.)*
   C. Exhibit C. Proposed amendments to MMC Section 19.402 and other related sections (clean version) *(Changes from May 20 version are highlighted in yellow.)*

ATTACHMENT 1

CITY OF MILWAUKIE

COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE (MMC) SECTION 19.402 NATURAL RESOURCES TO IMPROVE EFFECTIVENESS, COMPLY WITH STATE REQUIREMENTS RELATED TO HOUSING, AND BETTER ALIGN WITH THE CITY'S TREE CODE (FILE #ZA-2025-001).

WHEREAS many of Milwaukie's riparian, wildlife, and wetland resources have been adversely affected by development over time; and

WHEREAS it is the city's policy to minimize additional adverse impacts and to restore and improve resources where possible while balancing property rights and development needs; and

WHEREAS the State of Oregon has identified a severe shortage of housing and has prioritized the elimination or minimization of barriers to housing development, including where natural resources are involved; and

WHEREAS in 2022 the city adopted regulations for trees on private residential properties, with some overlapping with the natural resource regulations of MMC 19.402; and

WHEREAS the proposed amendments will provide a clear and objective review path for limited disturbance of designated natural resources for housing development, better align the regulations of the tree code (MMC Chapter 16.32) with those of MMC 19.402, and generally improve the functionality of the existing natural resource regulations; and

WHEREAS legal and public notices have been provided as required by law; and

WHEREAS, on April 22, 2025, the Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the proposed amendments; and

WHEREAS the City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the proposed amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The MMC is amended as described in Exhibit B (underline/strikeout version) and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective 30 days from the date of adoption.

ATTACHMENT 1

Read the first time on _____ and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

_____
Lisa M. Batey, Mayor

ATTEST:

_____
Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:

_____
Justin D. Gericke, City Attorney

EXHIBIT A

Recommended Findings in Support of Approval
File #ZA-2025-001
Amendments to MMC Section 19.402 (Natural Resource Regulations)

Sections of the Milwaukie Municipal Code not addressed in these findings are found to be inapplicable to the decision on this application.

1. The applicant, the City of Milwaukie, proposes to amend the natural resource regulations that are established in Section 19.402 of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2025-001.

2. The purpose of the proposed code amendments is to improve the effectiveness of the City's natural resource (NR) regulations. Since the last major update of the NR code in MMC 19.402, the City has adopted new protections for trees on residential properties (in MMC Chapter 16.32) and the State of Oregon has established requirements to facilitate the development of more housing. The methods for updating the accompanying NR map have also proven to be cumbersome, particularly for detailed verification of habitat conservation areas. The proposed amendments address these and other related issues.

3. The proposal is subject to the criteria and procedures outlined in the following sections of the Milwaukie Municipal Code (MMC):

   - MMC Section 19.902 Amendments to Maps and Ordinances
   - MMC Section 19.1008 Type V Review

   The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. An initial evidentiary hearing was held by the Planning Commission on April 22, 2025, and public hearings were held by the City Council on May 20, 2025, and July 8, 2025, as required by law.

4. MMC Section 19.902 Amendments to Maps and Ordinances

   MMC 19.902 establishes the general process for amending the City's Comprehensive Plan and land use regulations within the Milwaukie Municipal Code. Specifically, MMC Subsection 19.902.5 establishes Type V review as the process for changing the text of land use regulations, with the following approval criteria:

   a. MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

      The proposed amendments are consistent with other provisions of the Milwaukie Municipal Code, including MMC Chapter 16.32 Tree Code.

      This standard is met.

   b. MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

      Of the various goals, objectives, and policies in the Comprehensive Plan, the chapter on Environmental Stewardship & Community Resiliency, with its section on natural resources

and environmental quality, is especially relevant to the proposed amendments. In addition, the chapter on Creating Complete Neighborhoods, with its section on housing, is addressed by one aspect of the proposed amendments.

The Natural Resources and Environmental Quality section includes the following goal statement, goals, and policies:

Protect, conserve, and enhance the quality, diversity, quantity and resiliency of Milwaukie's natural resources and ecosystems, and maintain the quality of its air, land, and water. Utilize a combination of development regulations, incentives, education and outreach programs, and partnerships with other public agencies and community stakeholders.

Goal 3.1 – Awareness and Education

Prioritize the protection of Milwaukie's natural resources and environmental quality through the use of best available science and management practices and increased community awareness and education.

Policy 3.1.4: Periodically update the City's inventory of wetlands, floodplains, fish and wildlife habitat and corridors, and other natural resources through both technology and in-field verification.

Goal 3.2 – Water Quality and Resources

Enhance the quality of Milwaukie's water resources and ensure they have adequate flows and quantity to support their long-term health.

Policy 3.2.1: Support programs and regulations to enhance and maintain the health and resilience of watersheds, riparian and upland zones, and floodplains.

Policy 3.2.4: Require a detailed analysis, including alternatives, of how development will avoid impacts to natural resources. If impacts cannot be avoided, include a detailed analysis of how development will minimize and mitigate impacts to the natural resources.

Policy 3.2.5: Regulate floodplains to protect and restore associated natural resources and functions, increase flood storage capacity, provide salmon habitat, minimize the adverse impacts of flood events, and promote climate change resiliency.

Policy 3.2.6: When considering development proposals, take into account changes in water flow, quantity and duration of flow associated with both development and climate change and evaluate the downstream impacts of development in upland areas.

Policy 3.2.7: Protect water quality of streams by using best available science to help control the amount, temperature, turbidity, duration, and quality of runoff that flows into them, in partnership with other regulatory agencies.

Policy 3.2.8: Improve stormwater detention and treatment standards through the use of best available science, technology, and management practices to meet water quality standards and achieve wildlife habitat protection and connectivity goals and standards.

Policy 3.2.9: Establish the City's preference for sustainable stormwater facilities that utilize natural systems and green technology through the use of incentives as well as future code changes.

Goal 3.3 – Flora and Fauna Habitat

Protect and conserve aquatic, aerial, arboreal, and terrestrial wildlife and plant habitat.

Policy 3.3.1: Protect habitat areas for native and non-invasive naturalized plants and wildlife that live and move through the city, especially climate-adapted species, pollinators, and indigenous species subject to Native American fishing rights. Focus these efforts on habitat that is part of or helps create an interconnected system of high-quality habitat and considers downstream impacts of activities within Milwaukie.

Policy 3.3.2: Consider impacts to habitat connectivity when reviewing development proposals.

Policy 3.3.4: Protect and enhance riparian vegetation that provides habitat and improves water quality along creeks and streams through the use of best available science and management practices to promote beneficial ecosystem services, such as managing water temperature and providing woody debris for habitat.

Policy 3.3.5: Require mitigation that restores ecological functions and addresses impacts to habitat connectivity as part of the development review process.

Policy 3.3.6: Encourage and incentivize voluntary restoration of natural resource areas, including removal of invasive species vegetation, on its stormwater management, and planting of native species or climate-adapted vegetation.

The City's natural resource (NR) regulations were established to protect community's riparian, wildlife, and wetland assets, many of which have been adversely impacted by development over time. The rules are intended to restore and improve resources where possible while balancing property rights and development needs.

The City maintains an administrative NR map that serves as an inventory of wetlands and habitat corridors, and the NR regulations include provisions for verifying and updating the NR map. The proposed amendments include adjustments to the methodology for detailed verification of habitat conservation areas (HCAs) intended to simplify and improve the process.

The NR rules are structured to discourage disturbance of designated natural resource areas, especially the water quality resource (WQR) areas identified as buffers alongside rivers,

creeks, streams and wetlands. Where development activity is proposed within WQR or HCA areas, the NR regulations require an analysis of impacts and prioritize avoidance of the resource, then minimization of impacts, and finally mitigation and mitigation with native plantings. Acknowledging the critical role that healthy riparian areas play in protecting and improving water quality, the list of exempt activities within WQR areas is particularly short, though it does include the restoration work and the removal of nuisance plants.

The WQR and HCA resources identified on the NR map overlap significantly with areas prone to flooding, so the regulations of MMC 19.402 and the flood hazard protections of MMC Title 18 work together to preserve flood storage capacity and enhance other important floodplain functions.

The Housing section includes the following goal statement, goals, and policies:

Provide safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability within dwellings and neighborhoods that are entirely equitable, delightfully livable, and completely sustainable.

Goal 7.1 – Equity

Enable and encourage housing options that meet the needs of all residents, with a specific focus on uplifting historically disenfranchised communities and eliminating disparities for populations with special needs or lower incomes.

Policy 7.1.3: Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.

Goal 7.3 – Sustainability

Promote environmentally and socially sustainable practices associated with housing development and construction.

Policy 7.3.1: Provide flexibility of footprint and placement of new housing to be consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.

Policy 7.3.2: Provide additional flexibility in site design and development standards in exchange for increased protection and preservation of trees and other natural resources.

For sites that are significantly constrained with HCA resources, the current NR regulations provide a clear and objective review path for housing and other uses. However, the proposed disturbance of WQR areas requires a complex discretionary review, regardless of purpose. The proposed amendments include a clear and objective path that would allow limited WQR disturbance for the creation of a dwelling unit.

As proposed, the amendments are consistent with and facilitate the actualization of many relevant goals and policies in the City's Comprehensive Plan.

This standard is met.

c. MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments are consistent with the following applicable sections of Metro's Urban Growth Management Functional Plan:

Title 3 – Water Quality and Flood Management

MMC Section 19.402 (Natural Resources) incorporates Metro's Title 3 regulations to ensure that the City's regulations for water quality are consistent with Metro requirements. The proposed clear and objective review path for limited disturbance to WQR areas for new dwelling units is deliberately established as a narrow one. As proposed, the new clear and objective path would be available only in situations where the site is heavily constrained by the WQR designation (1,500 sq ft or less of non-WQR area), the WQR is not classified as "Good" (as opposed to "Marginal" or "Poor"), the disturbance area is at least 30 ft from the top of bank or edge of wetland, no native trees greater than 1.5-in diameter at breast height are removed, and the disturbance is limited to the difference between the WQR and non-WQR areas (up to 800 sq ft). As proposed, the City is endeavoring to comply with the state mandate to lower barriers to housing development as well as the intent of Metro Title 1 (Housing Capacity) while maintaining the integrity of the existing WQR protections.

Title 8 – Compliance Procedures

The City's current Comprehensive Plan and land use regulations comply with the Functional Plan. The proposed amendments will be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9). As required by Metro Code Section 3.07.820.A, the City has provided notice of the proposed amendments to Metro's Chief Operating Officer more than 35 days in advance of the City Council hearing on the proposed amendments.

In processing the proposed amendments, the City has followed its own requirements and procedures for community involvement. The proposed amendments have been discussed at public work sessions of the Planning Commission and City Council. The City has conducted public hearings on the proposed amendments before the Planning Commission and City Council and has published public notice prior to each hearing.

Title 13 – Nature in Neighborhoods

MMC 19.402 incorporates Metro's Title 13 regulations to ensure that the City's regulations for habitat conservation are consistent with Metro requirements. The proposed amendments include a revision to the methodology for detailed verification of HCA boundaries that was provided by Metro in the original model ordinance. The existing methodology references mapping resources related to vegetative cover, habitat classification, and urban development

value that Metro does not maintain and that are not provided at a scale that is useful for site-by-site determinations. A revised methodology is proposed that focuses on the essential and accessible components of the original methodology and is more useful for local implementation. Aside from adjustments to better align the NR regulations related to tree removal with those of the City's tree code (MMC Chapter 16.32), no significant adjustments to the existing HCA protections are proposed.

This standard is met.

d. MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

Goal 1 – Citizen Involvement

To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

The City has an adopted and acknowledged amendment process and has followed that process in making these amendments. Public hearings on the proposed amendments have been held and public notice was published prior to each hearing. In addition, all owners of property with designated natural resources were sent notice of the public hearings. The Planning Commission members are appointed by an elected City Council, following an open and public selection process.

Goal 2 – Land Use Planning

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The proposed amendments will not change the City's land use planning process. The City will continue to have a comprehensive land use plan and implementing regulations that are consistent with the plan. The proposed amendments will update MMC Section 19.402 and related parts of the municipal code to improve functionality and effectiveness, which strengthens the City's existing policies that implement Goal 2.

Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

To protect natural resources and conserve scenic and historic areas and open spaces.

The proposed amendments will continue to ensure that development activity on properties that include designated natural resources will not negatively impact riparian and wetland habitat. The existing regulation of natural resources will not be diminished and will be better integrated with the residential tree protections established by the City in 2022.

Goal 6 – Air, Water, and Land Resources Quality

To maintain and improve the quality of the air, water, and land resources of the state.

The proposed amendments will continue to ensure that development activity on properties that include designated natural resources will not negatively impact water quality. The

establishment of a narrow path for clear and objective review of disturbance in designated water quality resource areas will maintain sufficient protection of those resources while responding to the housing priority identified by the state.

Goal 10 – Housing

To provide for the housing needs of citizens of the state.

The proposed amendments respond to the state-level policy to remove or reduce barriers to housing development by establishing a clear and objective review path for limited disturbance of designated water quality resource areas that involves the creation of a new dwelling unit.

This standard is met.

e. MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The proposed amendments to the City's existing regulations for natural resources do not introduce inconsistencies with respect to relevant federal regulations.

This standard is met.

The City Council finds that the proposed amendments to MMC Section 19.402 (Natural Resources) and related code sections are consistent with the applicable approval criteria for zoning text amendments as established in MMC 19.902.5.B.

5. MMC Section 19.1008 Type V Review

MMC 19.1008 establishes the procedures and requirements for Type V review, which is the process for legislative actions. The City Council, Planning Commission, Planning Manager, or any individual may initiate a Type V application.

The proposed amendments were initiated by the Planning Manager on March 17, 2025.

a. MMC Subsection 19.1008.3 establishes the public notice requirements for Type V review.

(1) MMC Subsection 19.1008.3.A General Public Notice

MMC 19.1008.3.A establishes the requirements for public notice, including a requirement to post public notice of a public hearing on a Type V application at least 30 days prior to the first evidentiary hearing. The notice must be posted on the City website and at City facilities that are open to the public.

A notice of the Planning Commission's April 22, 2025, hearing was posted as required on March 18, 2025. A notice of the City Council's May 20, 2025, hearing was posted on April 18, 2025.

(2) MMC Subsection 19.1008.3.B DLCD Notice

MMC 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) as per the

standards of MMC Subsection 19.1001.6.C.4.a, which required notice to be sent to DLCD at least 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on March 18, 2025, in advance of the first evidentiary hearing on April 22, 2025.

(3) MMC Subsection 19.1008.3.C Metro Notice

MMC 19.1008.3.C requires notice of a Type V application be sent to Metro at least 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on March 18, 2025, in advance of the first evidentiary hearing on April 22, 2025.

(4) MMC Subsection 19.1008.3.D Property Owner Notice (Measure 56)

MMC 19.1008.3.D requires notice to property owners if, in the Planning Manager's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

The proposed amendments would result in some changes for properties with designated natural resources, primarily to improve the effectiveness of existing regulations. A notice to this effect was mailed to the owners of all affected properties on April 2, 2025.

b. MMC Subsection 19.1008.4 Type V Decision Authority

MMC 19.1008.4 establishes that the City Council is the review authority for Type V applications and may approve, approve with conditions, amend, deny, or take no action on a Type V application after a public hearing.

The City Council held public hearings to consider this application on May 20, 2025, and July 8, 2025, and approved the proposed amendments.

c. MMC Subsection 19.1008.5 Type V Recommendation and Decision

MMC 19.1008.5 establishes the procedures for review and a decision on Type V applications. The process includes an initial evidentiary hearing by the Planning Commission and a recommendation to the City Council, followed by a public hearing and decision by the City Council.

The Planning Commission held an initial evidentiary hearing on April 22, 2025, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on May 20, 2025, and July 8, 2025, and approved the proposed amendments.

EXHIBIT B

TITLE 19 ZONING

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 Definitions

"Major pruning" means the trimming or removal of ~~more than~~ 20% or more of the live crown ~~a tree's canopy~~, or removal of or injury ~~or cutting of over 15% of~~ ~~the~~ to roots ~~system,~~ within a radial distance from the tree of six times the tree's diameter at breast height (DBH) or over 25% of the root protection zone (see Figure 16.32.042.G.1.b) during any 12-month period.

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.402 Natural Resources NR

19.402.1 Intent

Section 19.402 is to be interpreted consistently with the following:

A. Section 19.402 provides protection for water quality resources under Statewide Land Use Planning Goal 6 and Sections 1-4 of Title 3 of the Metro Urban Growth Management Functional Plan (UGMFP). Section 19.402 also provides protection for designated natural resources that have been identified for the purposes of implementing Statewide Planning Goal 5 relating to significant natural riparian, wildlife, and wetland resources and Title 13 of the UGMFP.

B. Many of Milwaukie's riparian, wildlife, and wetland resources have been adversely affected by development over time. These regulations seek to minimize additional adverse impacts and to restore and improve resources, where possible, while balancing property rights and ~~D~~development needs of the city.

C. It is also the intent of Section 19.402 to:

1. Designate water quality resources (WQRs) to protect the functions and values of riparian and wetland resources at the time of development.
2. Protect and improve the functions and values that contribute to water quality and to fish and wildlife habitat in urban streamside areas. These functions and values include, but are not limited to:
   a. Vegetated corridors to separate protected water features from ~~D~~development.
   b. Microclimate and shade.
   c. Streamflow moderation and water storage.
   d. Water filtration, infiltration, and natural purification.
   e. Bank stabilization and sediment and pollution control.
   f. Large wood recruitment and retention and natural channel dynamics.
   g. Organic material resources.
3. Designate habitat conservation areas (HCAs) to implement the performance standards of Title 13 of the UGMFP for riparian areas and fish and wildlife habitat, and to protect significant local Goal 5 resources such as wetlands.
4. Provide nondiscretionary (clear and objective) standards, as well as a discretionary review process, applicable to development in HCAs, in accordance with Goal 5.

5. Allow and encourage habitat-friendly development while minimizing the impact on water quality and fish and wildlife habitat functions.
6. Permit residential cluster development to encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography.
7. Provide mitigation standards for the replacement of ecological functions and values lost through development in WQRs and HCAs. This includes restoration of designated natural resources that are temporarily disturbed during development, as well as mitigation for permanent disturbance of those areas as a result of development.
8. Preserve existing native vegetation against removal and replacement with lawns, gardens, or other nonnative plantings.

D. Section 19.402 allows development in situations where adverse impacts from the development can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of property.

E. It is not the intent of Section 19.402 to:

1. Impose any obligation on property owners to restore existing developed sites to predevelopment or natural conditions when no new activity is proposed.
2. Impose any unreasonable hardship against the continued maintenance of existing legal site conditions.
3. Apply to activities that do not affect WQRs or HCAs.
4. Prohibit normal lawn and yard landscape planting and maintenance that does not involve removal and replacement of existing native vegetation. Normal lawn and yard planting and maintenance does not include the planting of invasive nonnative or noxious vegetation, including, but not limited to, plants listed as nuisance species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List established in Subsection 19.402.2.G.

19.402.2 Coordination with Other Regulations

A. Implementation of Section 19.402 is in addition to, and ~~shall~~ will be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, ~~and~~ Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 ~~shall~~ does not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision ~~shall~~ will be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming solely because of Section 19.402, ~~shall~~ is not ~~be~~ subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons ~~shall~~ will be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, ~~S~~state, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, ~~S~~state, and federal regulations, the requirements of Section 19.402 ~~shall~~ will govern.

F. Development in or near wetlands and streams may require permits from the Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers (Corps). If a federal permit is required, a

water quality certification from the Oregon Department of Environmental Quality (DEQ) may also be required. The Planning ~~Director~~ Manager ~~shall~~ will notify DSL and the Corps when an application for development within streams and wetlands is submitted. Because these agencies may have more restrictive regulations than the City, applicants are encouraged to contact them before preparing development plans.

G. A document or other list used to identify native, nuisance, and prohibited plants ~~shall~~ will be maintained by the Planning Manager and ~~shall~~ will be referred to as the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List.

H. A document or other list used to identify chemicals that have been demonstrated to be detrimental to water quality and habitat health ~~shall~~ will be maintained by the Planning Manager and ~~shall~~ will be referred to as the ~~"~~Milwaukie Prohibited Chemicals List.~~"~~

19.402.3 Applicability

A. The regulations in Section 19.402 apply to all properties that contain~~,~~ or are within 100 ft of a WQR and/or HCA (including any locally significant Goal 5 wetlands or habitat areas identified by the City of Milwaukie) as shown on the Milwaukie Natural Resources Administrative Map (hereafter "NR ~~Administrative~~ Map").

B. For properties that do not contain, but are within 100 ft of, a WQR and/or HCA, as shown on the NR ~~Administrative~~ Map, and where an activity not listed as exempt in Subsection 19.402.4.A will disturb more than 150 sq ft, a construction management plan is required in accordance with Subsection 19.402.9 (see also Table 19.402.3).

C. The NR ~~Administrative~~ Map, which shows WQRs and HCAs, is adopted by reference. The NR ~~Administrative~~ Map ~~shall~~ will be used to determine the applicability of Section 19.402 and ~~shall~~ will be administered in accordance with Subsection 19.402.15.

D. Designated natural resources are shown on the NR ~~Administrative~~ Map as follows:

1. Water quality resources (WQRs) include protected water features and their associated vegetated corridors, as specified in Table 19.402.15. The vegetated corridor is a buffer around each protected water feature, established to prevent damage to the water feature. The width of the vegetated corridor varies depending on the type of protected water feature, upstream drainage area served, and slope adjacent to the protected water feature. The NR ~~Administrative~~ Map is a general indicator of the location of vegetated Corridors; the specific location of vegetated corridors ~~shall~~ must be determined in the field in accordance with Table 19.402.15.

2. Habitat conservation areas (HCAs) include significant Goal 5 wetlands, riparian areas, and fish and wildlife habitat. HCAs are designated based on a combination of inventory of vegetative cover and analysis of habitat value and urban development value. HCA locations on the NR ~~Administrative~~ Map are assumed to be correct unless demonstrated otherwise; verifications and corrections ~~shall~~ will be processed in accordance with the procedures established in Subsection 19.402.15.

E. To determine whether a proposed activity on a given property will trigger any requirements of Section 19.402, the City ~~shall~~ will use the latest available aerial photographs; a copy of the applicable section of the NR ~~Administrative~~ Map; and, in the case of WQRs, the parameters established in Table 19.402.15. If a property owner or applicant believes that the NR ~~Administrative~~ Map is inaccurate, they may propose corrections according to the standards established in Subsection 19.402.15.

F. In the context of designated natural resources, "disturbance" is a condition or result of an act that "disturbs" as defined in Section 19.201. Disturbance can be either temporary or permanent as noted below.

1. Temporary disturbances are those that occur during an allowed or approved ~~D~~development or activity but will not persist beyond completion of the project. Temporary disturbances include, but are not limited to, accessways for construction equipment; material staging and stockpile areas; and excavation areas for building foundations, utilities, stormwater facilities, etc.
2. Permanent disturbances are those that remain in place after an allowed or approved ~~D~~development or activity is completed. Permanent disturbances include, but are not limited to, buildings, driveways, walkways, and other permanent structures.

G. If more than 150 sq ft of area will be disturbed in conjunction with a proposed activity listed as exempt in Subsection 19.402.4.B, a construction management plan ~~shall~~ must be submitted according to the provisions of Subsection 19.402.9. This requirement applies even when the proposed activity will not occur within a designated natural resource but is within at least 100 ft of the resource, in accordance with Table 19.402.3.

H. Proposed activities that are listed as exempt or occur more than 100 ft from a WQR or HCA, as shown on the NR ~~Administrative~~ Map or determined in accordance with Table 19.402.15, do not require review under the provisions of Section 19.402.

I. Those portions of streams, creeks, and other protected water features that appear on the NR ~~Administrative~~ Map but are enclosed in pipes, culverts, or similar structures are not subject to the provisions of Section 19.402, except where a proposed activity will expose or directly disturb the protected water feature, such as with excavation. For WQRs, the underground portion of the protected water feature is not considered a protected water feature for purposes of determining the WQR location as outlined in MMC Table 19.402.15. For HCAs, the boundary verification options provided in MMC 19.402.15 may be used as necessary to determine whether the aboveground characteristics of the underground portion of the protected water feature affect~~s~~ the representation of HCA on the NR ~~Administrative~~ Map.

J. The requirements of Section 19.402 apply, as shown in Table 19.402.3, both to properties that include a WQR and/or HCA, and to properties that do not include a WQR or HCA but where an activity is proposed within 100 ft of a WQR or HCA.

Table 19.402.3
Applicability of Requirements of Section 19.402

Situations/activities that may trigger Section 19.402	Prepare Construction Management Plan per Subsection 19.402.9?	Comply with Remainder of Section 19.402?
Activities listed as exempt per: • **Subsection 19.402.4.A** (outright exemptions for both WQRs and HCAs)	No	No
• **Subsection 19.402.4.B** (limited exemptions for HCAs only)	No (unless > 150 sq ft of disturbance is proposed)	No
Nonexempt activities: • Outside of WQR and HCA	No (unless activity is within 100' of WQR or HCA and > 150 sq ft of disturbance is proposed)	No
• Within WQR or HCA	Yes	Yes

K. Activities that are not exempt per Subsection 19.402.4, or prohibited per Subsection 19.402.5, are subject to the Type I, II, or III review process as outlined in Table 19.402.3.K.

Table 19.402.3.K
Types of Process Review for Various Activities

Activity (and applicable code sections)	**Type of Review Process**		
	Type I (19.1004)	**Type II (19.1005)**	**Type III (19.1006)**
Agency-approved natural resource management plans **(Subsections 19.402.10.A and C)**	✓		
Independent natural resource management plans **(Subsections 19.402.10.B and C)**		✓	
Limited tree removal **(Subsection 19.402.6.B)**	✓		
Tree removal that is not exempt or allowable with Type I review **(Subsection 19.402.8.A.8)**			✓
Activities within HCA that meet nondiscretionary standards **(Subsection 19.402.11.D)**	✓		
Maintenance of existing utility facilities **(Subsection 19.402.6.E)**	✓		
Utility connections **(Subsection 19.402.6.F)**	✓		
Nonemergency abatement of nuisances or violations **(Subsection 19.402.6.G)**	✓		
Limited WQR disturbance for new dwelling units **(Subsection 19.402.6.B)**	✓		
Special use activities **(Subsections 19.402.7.A and 19.402.11.E)**		✓	
Other ~~L~~limited disturbance to WQRs **(Subsection 19.402.7.D)**		✓	
Development activities that are not exempt or allowable with Type I or II review **(Subsections 19.402.8 and 19.402.12)**			✓
Property line adjustments that balance the HCA distribution **(Subsection 19.402.13.E.1 or 2)**	✓		
Property line adjustments that otherwise limit HCA disparity **(Subsection 19.402.13.E.3)**		✓	
Low-impact partitions ~~or replats~~ (put designated natural resources in separate tract) **(Subsection 19.402.13.~~G~~F)**	✓	~~✓~~	

Table 19.402.3.K Types of Process Review for Various Activities			
Activity (and applicable code sections)	**Type of Review Process**		
	Type I (19.1004)	**Type II (19.1005)**	**Type III (19.1006)**
Other partitions~~, replats,~~ or subdivisions ~~(development activities that are not exempt or allowable with Type I or II review)~~ **(Subsections ~~19.402.8, 19.402.12, and~~ 19.402.13.~~F,~~G or H ~~or I~~)**		✓	✓
Boundary verifications with minor corrections **(Subsection 19.402.15.A.1)**	✓		
Boundary verifications with substantial corrections **(Subsection 19.402.15.A.2)**		✓	

L. Where WQRs and HCAs overlap, the WQR overlap area is not included in any calculations of the HCA area for purposes of determining whether HCA-only exemptions are allowed or for calculating allowable HCA disturbances.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.
2. Stream, wetland, riparian, and upland enhancement or restoration projects and ~~D~~development in compliance with a natural resource management plan or mitigation plan ~~A~~approved by the City or by a ~~S~~state or federal agency.
3. Emergency procedures or activities undertaken (excluding non-exempt tree removal as allowed in Subsection 19.402.4.A.6) that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action ~~shall~~ must repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.
4. The planting or propagation of plants categorized as native species on the Milwaukie ~~Native~~ Plant List.
5. Removal of plants categorized as nuisance species on the Milwaukie ~~Native~~ Plant List. After removal, all open soil areas ~~shall~~ must be replanted and/or protected from erosion.
6. Removal of trees under any of the following circumstances:

a. The tree is a "downed tree" as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.

~~b. The tree is categorized as a nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List, no more than 3 such trees will be removed from one property during any 12-month period, the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).~~

~~c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied Building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met.~~

b. The tree is less than 6-in diameter at breast height (DBH), is not a species on the Milwaukie Rare or Threatened Tree List, and was not planted to meet any requirements in Sections 16.32.042 or 16.32.044.

c~~d~~. Removal of the tree is in accordance with ~~the requirements in Chapter 16.32 and~~ an approved natural resource management plan per Subsection 19.402.10 and any applicable requirements in Chapter 16.32.

d~~e~~. Major pruning of trees within 10 ft of existing structures in accordance with the ~~requirements in Chapter 16.32~~Best Management Practices of the International Society of Arboriculture (ISA).

e. Removal of a public tree (as defined in Subsection 16.32.010; i.e., a tree on land owned or maintained by the City) that meets at least one of the criteria for exempt removal as outlined in this subsection or one of the criteria for limited tree removal as provided in Subsection 19.402.6.A.

7. Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List, or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees ~~of~~ larger than 6-in diameter at breast height (DBH) or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland. This exemption extends to the installation of benches, chairs, and similar unsheltered sitting apparatus within 30 ft or less of the top of bank or within 50 ft or less of the edge of a wetland, provided that the installation involves no more than 4 sq ft of disturbance per apparatus and that no more than one bench or sitting apparatus is installed per 100 lineal feet along the top of bank or edge of wetland. All temporary disturbances must be restored.

9. Routine repair and maintenance, alteration, demolition, and/or change of use of existing legal

structures, provided that the following criteria are met:

a. There is no change in the location, or increase in the footprint, of any building, impervious surface, or outdoor storage area within a WQR or HCA.

b. No other site changes are proposed that could result in increased direct stormwater discharges to a WQR. If the project will result in increased direct stormwater discharges, the proposal is subject to the Type II review process and the standards for discretionary review established in Subsection 19.402.12.

10. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, trails, walkways, and parking improvements (including asphalt overlays); provided that there is no new disturbance of the WQR or HCA, no increase in impervious area, no reduction in landscaped areas or tree cover, and no other change that could result in increased direct stormwater discharges to the WQR.

11. Routine repair and maintenance of public and private stormwater facilities in accordance with a stormwater management plan approved by the City.

12. Existing agricultural practices or uses, excluding buildings and structures, provided that such activities or uses do not result in increased direct stormwater discharges to WQRs.

13. Removal of debris, as defined in Section 19.201.

14. Change of ownership.

15. Lot consolidations, as defined in Section 17.08.~~150~~010.

16. Activities and improvements in existing public rights-of-way.

17. Establishment and maintenance of trails in accordance with the following standards:

    a. Trails ~~shall~~ must be confined to a single ownership or within a public trail easement.

    b. Trails ~~shall~~ must be no wider than 30 in. Where trails include stairs, stair width ~~shall~~ must not exceed 50 in and trail grade ~~shall~~ must not exceed 20%, except for the portion of the trail containing stairs.

    c. Trails ~~shall~~ must be unpaved and constructed with nonhazardous, pervious materials.

    d. Trails ~~shall~~ must be located at least 15 ft from the top of bank of all water bodies except where necessary to access a bench or similar sitting apparatus exempted in Subsection 19.402.4.A.8.

    e. Plants adjacent to trails may be trimmed, but trimming clearances ~~shall~~ must not exceed a height of 8 ft and a width of 6 ft.

    f. Native trees of larger than 6-in ~~diameter~~DBH, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, ~~shall~~ must not be removed.

18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

B. Limited Exemptions Within HCAs

The following activities within HCAs are exempt from the provisions of Section 19.402, except that a construction management plan is required, according to the provisions of Subsection 19.402.9, where the activity disturbs a total of more than 150 sq ft:

1. The alteration and/or total replacement of existing structures, provided that both of the following standards are met:

    a. The alteration and/or replacement ~~shall~~ does not intrude more than 500 sq ft into the HCA,

beyond the area defined as the building footprint as of September 15, 2011, the effective date of Ordinance #2036.

b. The alteration and/or replacement ~~shall~~ does not result in increased direct stormwater discharges to a WQR.

2. Minor encroachments, not to exceed 500 sq ft for residential zones or 150 sq ft in nonresidential zones, for new features such as accessory buildings, patios, walkways, or retaining walls.

3. Temporary and minor clearing, excavation, or other disturbances, not to exceed 150 sq ft, for the purpose of~~:~~ site investigations or preparation of soil profiles; installation of underground utility facilities or other infrastructure; routine repair and maintenance and/or alteration of existing utility facilities, access, streets, driveways, and parking improvements; or similar activities, provided that such disturbed areas are restored to their original condition when the activity is complete.

4. Low-impact outdoor recreation facilities for public use—including, but not limited to, multiuse paths, accessways, trails, picnic areas, or interpretive and educational displays and overlooks that include benches and outdoor furniture—provided that such facilities contain no more than 500 sq ft of new impervious surface. Any trails ~~shall~~ must have a maximum width of 5 ft and ~~shall~~ must be constructed using nonhazardous, pervious materials.

5. Facilities that infiltrate stormwater on the site, including the associated piping, so long as the forest canopy and the areas within the driplines of the trees are not disturbed. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins. Native or nonnative vegetation may be planted in these facilities, provided that none of the plantings are identified as a nuisance species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List.

19.402.5 Prohibited Activities

Title 19 Zoning is comprised of regulations that deal with the use of land; it does not extend into the broader realm of laws that regulate personal activities unrelated to land use and development. Given such limitations, the following activities are prohibited within WQRs and HCAs:

A. New structures, development, or landscaping activity other than those allowed by Section 19.402.

B. Uncontained areas of hazardous materials, as defined by DEQ.

C. Planting any vegetation listed as a nuisance species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List.

D. Outside storage of materials; unless such storage began before September 15, 2011, the effective date of Ordinance #2036; or unless such storage is approved according to the applicable provisions of Section 19.402.

E. Application of pesticides or herbicides with any of the active ingredients listed on the Milwaukie Prohibited Chemicals List.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. For trees not exempted by Subsections 19.402.4.A.6 (general exemptions) or 19.402.6.A.2 (development scenarios), ~~T~~the Planning Manager may approve an application for limited tree removal or major pruning within WQRs and HCAs ~~when the applicable requirements in Chapter~~

~~16.32 are met, except where exempted by Subsection 19.402.6.A.2,~~ under any of the following circumstances:

a. ~~The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning Manager.~~ The tree poses an immediate emergency, as determined by the Urban Forester, Planning Manager, or designee; or a hazardous but nonemergency situation, with an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist that is Tree Risk Assessment Qualified (TRAQ) in accordance with current ISA Tree Risk Assessment Best Management Practices.

   Immediate emergencies may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged or is damaging structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples include but are not limited to trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. Emergency situations do not offer time for the normal review process and will be evaluated retroactively once the emergency has been resolved.

   A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse.

   Approval ~~shall~~ will be limited to removal of the tree, or portion of the tree, as necessary to eliminate the emergency or hazard. Any damage or impacts to the designated natural resource must be repaired after the emergency or hazard has been resolved. Any applicable requirements of Chapter 16.32 must also be met.

b. The tree is dead, diseased, or dying and cannot be saved, as determined and documented in a report by an ISA ~~c~~Certified ~~a~~Arborist in accordance with ISA standards. This includes situations where a tree has sustained physical damage that will cause it to die or enter an advanced state of decline.

c. The ~~proposal would remove more than 3 trees during any 12-month period that are~~ tree is categorized as a nuisance species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List.

d. The tree is a downed tree, but more than 150 sq ft of earth disturbance is necessary to remove it.

~~e. The tree is a nuisance species, but more than 150 sq ft of earth disturbance is necessary to remove it.~~

e. The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

f. The tree location conflicts with areas of public street widening, construction, or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

g. Tree removal is required for the purposes of utility or infrastructure repair and there is no practicable alternative to removing the tree.

h. The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other

means that would result in tree retention.

i~~f~~. The tree is not categorized as either a nuisance or native species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List, is less than 12-in DBH, and is not located in a WQR categorized as Class A ("Good")~~,~~ according to Table 19.402.11.C, provided that no more than three (3) such trees will be removed during any 12-month period~~, and complies with the applicable requirements in Chapter 16.32~~. In residential zones, for the proposed removal of more than one such tree (i.e., non-nuisance, non-native, not in a "Good" WQR area) during any 12-month period, the Type B tree permit process outlined in Subsection 16.32.044.E is applicable in addition to the provisions of Subsection 19.402.6.A.

j~~g~~. For major pruning, as defined in Section 19.201, a certified arborist has determined, and documented in a report, that the tree will survive the proposed pruning.

2. The provisions of Subsection 19.402.6.A.1 do not apply to tree removal proposed in association with development or other activities regulated by Section 19.402, for which other approval criteria and mitigation standards may apply.

3. The Planning Manager ~~shall~~ will require the application to comply with all of the following standards:

   a. A construction management plan ~~shall~~ must be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the ~~A~~approved removal or pruning, all open soil areas that result from the disturbance ~~shall~~ must be replanted and/or protected from erosion.

   b. All pruning and/or tree removal ~~shall~~ must be done in accordance with the standards of the International Society of Arboriculture (ISA) and must compl~~ies~~y with the applicable requirements in Chapter 16.32.

   c. Any tree that is removed in accordance with Subsection 19.402.6.A ~~shall~~ must be replaced with a new tree, of at least ~~½~~1.5-in caliper or at least ~~6~~5-ft overall height after planting. An exception to this requirement may be granted if the applicant demonstrates that a replacement tree has already been planted~~,~~ in anticipation of tree removal~~,~~ or if ~~the~~ existing ~~site conditions~~ dense canopy coverage otherwise precludes tree replacement ~~(due to existing dense canopy coverage or other ecological reasons)~~. Any other proposed exception to this replanting requirement is subject to the mitigation fees established in conjunction with Section 16.32.044.

   d. The replacement tree(s) ~~shall~~ must be located in the general vicinity of the removed tree(s), somewhere within the designated natural resource (WQR or HCA). The replacement tree(s) does not have to be a native species; but, in accordance with Subsection 19.402.5.C, the replacement tree(s) ~~shall~~ must not be categorized as a nuisance species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List. The property owner ~~shall~~ must ensure that the replacement tree(s) survives at least two (2) years beyond the date of its planting.

B. Limited WQR Disturbance for New Dwelling Units

1. Within WQRs, nonexempt residential development that is not listed in Subsections 19.402.7 or 19.402.8 and that is in compliance with the following nondiscretionary standards is allowable subject to Type I review:

   a. The disturbance (temporary or permanent) is directly related to the construction of a new dwelling unit (primary or accessory); and

   b. The area of the site that is not categorized as WQR and that is outside the minimum required yard setbacks for the underlying zone is 1,500 sq ft or less. In such cases, the disturbance

area within the WQR is limited by the following formula: subtract the area of the site that is not categorized as WQR from the area of the site that is categorized as WQR; if that number is positive, that amount of WQR on the site can be disturbed, up to a maximum of 800 sq ft (see Figure 19.402.6.B.1.b); and

c. The WQR being disturbed is not categorized as Class A ("Good") according to Table 19.402.11.C; and

d. The disturbance area is at least 30 ft from the top of bank of a stream or drainage or 50 ft from the edge of a wetland; and

e. The disturbance does not include the removal of any trees 6-in DBH or greater that are categorized as a native species on the Milwaukie Plant List; and

f. The disturbance will not result in any increased direct stormwater discharges to the WQR.

2. Where limited WQR disturbance is allowed by this subsection, mitigation must be provided in accordance with the general standards of Subsection 19.402.11.B (including for plant species, size, spacing, survival, etc.) and as follows:

a. For temporary disturbances, the disturbance area must be replanted at a minimum with native ground-cover species sufficient to cover all bare or exposed soil.

b. For permanent disturbances, an area equal in size to the disturbance area must be established as a mitigation area. Within the mitigation area, all vegetation categorized as a nuisance species on the Milwaukie Plant List must be removed and native-species trees and shrubs must be planted at a ratio of 5 trees and 25 shrubs per 500 sq ft of allowed disturbance. Any remaining bare soil within the mitigation area must be replanted with native ground-cover species.

These standards apply in addition to any other applicable provisions related to tree removal as established in Section 16.32.042.

C~~B~~. Activities within HCAs in Compliance with Nondiscretionary Standards

Within HCAs~~,~~ but outside of WQRs, nonexempt development that is not listed in Subsections 19.402.7 or 19.402.8~~,~~ and that is in compliance with the following nondiscretionary standards ~~provided in Subsection 19.402.11.D,~~ is subject to Type I review.

1. Single Detached and Middle Housing Residential Uses

For single detached and middle housing residential uses, including any related public facilities as required by Chapter 19.700 Public Facility Improvements, the amount of nondiscretionary disturbance allowed within an HCA is determined by subtracting the area of the lot or parcel outside of the total resource area (WQR and HCA) from the maximum potential disturbance area within the HCA (which is 50% of the total HCA, up to a maximum of 5,000 sq ft)—see Table 19.402.6.C.1 for examples. Such disturbance will be subject to Type I review and the mitigation requirements described in Subsection 19.402.11.D.2.

Table 19.402.6.C.1 Method for Calculating Allowable Nondiscretionary Disturbance within an HCA for Single Detached Dwellings and Middle Housing Residential Uses
X = The maximum potential disturbance area within the HCA, which is 50% of the total HCA, up to a maximum of 5,000 sq ft. **Y** = The area of the lot or parcel outside the total resource area (WQR and HCA).

Table 19.402.6.C.1 Method for Calculating Allowable Nondiscretionary Disturbance within an HCA for Single Detached Dwellings and Middle Housing Residential Uses
Z = The net amount of disturbance area allowed within the HCA (Z = X-Y). **If (Y) is greater than (X), disturbance ~~shall~~ is not ~~be~~ permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.**
Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR X = 1,500 sq ft (50% of HCA) Y = 5,000 sq ft outside of HCA/WQR Z = -3,500 sq ft (1,500 sq ft – 5,000 sq ft) **Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.**
Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR X = 3,000 sq ft (50% of HCA) Y = 2,000 sq ft outside of HCA/WQR Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft) **Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.**

2. All Other Uses

A maximum net disturbance area of 10% of the HCA on the site is allowed by right, subject to Type I review and the mitigation requirements described in Subsection 19.402.11.D.2.

D~~C~~. Natural Resource Management Plans

Natural resource management plans that meet the standards outlined in Subsection 19.402.10.A are subject to Type I review. These are typically plans that have already been approved by a qualified agency.

E~~D~~. Maintenance of Existing Utility Facilities

Routine repair and maintenance of existing utility facilities, accesses, streets, driveways, and/or parking improvements that disturbs a WQR and/or HCA is subject to Type I review, provided such activities can meet the general standards for special uses established in Subsection 19.402.11.E.1. These include, but are not limited to, the requirement to provide a mitigation plan and to restore the disturbed area.

F~~E~~. Utility Connections

Unless they are exempt per Subsection 19.402.4, connections to existing or new utility lines that involve disturbance to a WQR and/or HCA are subject to Type I review against the following criteria:

1. The activities required to establish the connection shall not disturb a protected water feature. Utility connections that will disturb a protected water feature are subject to the review procedures for special uses established in Subsection 19.402.11.E.
2. The activities required to establish the connection shall not disturb an area greater than 10 ft wide.
3. The connection can meet the general standards for special uses established in Subsection

19.402.11.E.1.

G~~F~~. Nuisance Abatement

Measures to remove or abate nuisances; or any other violation of ~~S~~state statute, ~~A~~administrative agency rule, or City or County ordinance; shall be subject to Type I review of a construction management plan, to be approved by the Planning ~~Director~~ Manager prior to the abatement activity. The person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the nuisance or violation (e.g., restore disturbed soils, restore hydrologic connections, replant disturbed areas with native vegetation, etc.) unless subsequent development has been approved.

H~~G~~. Boundary Verification

Boundary verifications that propose minor corrections will be processed in accordance with Subsection 19.402.15.A.1 and are subject to Type I review.

I. Low-Impact Partitions

Partitions that meet the standards established in Subsection 19.402.13.F are subject to Type I review.

19.402.7 Activities Requiring Type II Review

Within either WQRs or HCAs, the following activities and items are subject to Type II review and approval by the Planning ~~Director~~ Manager per Section 19.1005, unless they are otherwise exempt or permitted as a Type I activity.

A. Special Uses

If not listed as exempt in Subsection 19.402.4, and not able to meet the nondiscretionary standards for HCAs as established in Subsection 19.402.11.D, any special use activity listed below ~~shall be~~ is subject to Type II review if the proposal complies with the applicable standards provided in Subsection 19.402.11.E:

1. Improvement or construction of public or private utility facilities.
2. New stormwater facilities.
3. Walkways and bike paths.
4. Stormwater management plans.

If the proposed special use activity is not in compliance with the applicable standards in Subsection 19.402.11.E, it ~~shall be~~ is subject to Type III review and the general discretionary review criteria provided in Subsection 19.402.12.

B. Natural Resource Management Plans

Natural resource management plans that do not meet the Type I review standards provided in Subsection 19.402.10.A, but that meet the standards provided in Subsection 19.402.10.B, are subject to Type II review. These are typically plans that have been prepared independently of a qualified agency but that are in accordance with standards and guidelines related to enhancing natural resources.

C. Partitions and Subdivisions

Partitions and subdivisions that meet the standards provided in Subsection 19.402.13.G and H, respectively, are subject to Type II review.

D. Other Uses and Activities with Minimal Impacts to WQRs

The activities listed below are subject to Type II review and the general discretionary review criteria provided in Subsection 19.402.12:

1. New agricultural practices or uses, excluding buildings and structures, that result in increased direct stormwater discharges to WQRs.
2. Landscaping and maintenance of existing landscaping that would increase impervious area within a WQR by no more than 150 sq ft and/or would result in increased direct stormwater discharges to the WQR.
3. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by no more than 150 sq ft within the WQR.
4. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that increases the existing disturbance area by no more than 150 sq ft within the WQR. Activities approved under this subsection shall be subject to the following requirements:
   a. Restore the disturbed portion of the WQR.
   b. Within the disturbed portion of the WQR, remove any vegetation categorized as a nuisance species on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List and replace it with native vegetation from the list.

E. Boundary Verification

Boundary verifications that propose substantial corrections will be processed in accordance with Subsection 19.402.15.A.2 and are subject to Type II review.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below ~~shall be~~ are subject to the general discretionary review criteria provided in Subsection 19.402.12:

1. Any activity allowed in the base zone that is not otherwise exempt or permitted as a Type I or II activity.
2. Within HCAs, development that is not in compliance with the nondiscretionary standards provided in Subsection 19.402.11.D.
3. New roads to provide access to protected water features, necessary ingress and egress across WQRs, or the widening of an existing road.
4. Improvement of existing public utility facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
5. New stormwater facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
6. New public or private utility facility construction that cannot meet the applicable standards of Subsection 19.402.11.E.
7. Walkways and bike paths that are not exempt per Subsection 19.402.4 or cannot meet the applicable standards of Subsection 19.402.11.E.
8. Tree removal in excess of that permitted under Subsection 19.402.4 or 19.402.6. Tree removal must also comply with ~~the~~ any applicable requirements in Chapter 16.32.

9. Landscaping and maintenance of existing landscaping that would increase impervious area by more than 150 sq ft.
10. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by more than 150 sq ft within the WQR.
11. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that would disturb more than 150 sq ft within the WQR.

~~B. The activities listed below shall be subject to the review criteria for partitions and subdivisions provided in Subsections 19.402.13.H and I, respectively:~~

~~1. The partitioning of land containing a WQR or HCA that cannot meet the standards provided in Subsection 19.402.13.G.~~

~~2. The subdividing of land containing a WQR or HCA.~~

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but ~~shall~~ will be reviewed administratively in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.
2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.
3. Location of site access and egress that construction equipment will use.
4. Equipment and material staging and stockpile areas.
5. Erosion and sediment control measures.
6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.~~F~~G.

When required for a property that does not include a designated natural resource, the construction management plan ~~shall~~ must show the protective measures that will be established on the applicant's property.

19.402.10 Natural Resource Management Plans

Natural resource management plans or restoration plans that authorize limited disturbance within the WQR or HCA may be approved with Type I or II review, subject to the following standards:

A. Plans Eligible for Type I Review

The plan has already been approved by the U.S. Fish and Wildlife Service, Oregon Department of Fish and Wildlife (ODFW), DSL, Oregon Watershed Enhancement Board (OWEB), Metro, Clackamas County Soil and Water Conservation District, or other agency approved by the Planning ~~Director~~ Manager.

B. Plans Eligible for Type II Review

The plan has been prepared in accordance with particular standards and guidelines promulgated by a natural resource agency, such as OWEB's Oregon Aquatic Habitat Restoration and Enhancement Guide, ODFW's Western Oregon Stream Restoration Program, DSL's Hydrogeomorphic (HGM) approach of assessment for wetland and riparian functions, or other standards approved by the

Planning ~~Director~~ Manager.

C. Approval Criteria

Every plan prepared for approval under Section 19.402 ~~shall~~ must demonstrate that it encourages restoration activities that have any of the following effects:

1. Changes the trend of habitat function from one of a diminishing ability to support salmonids and other organisms to one that supports a complex, self-sustaining system.
2. Corrects or improves conditions caused by past management and/or disturbance events.
3. Maximizes beneficial habitat in the short term where watershed degradation has been extensive and natural processes will need substantial time to restore habitat.
4. Creates beneficial habitat and restores stream function and hydrology to the fullest extent practicable within developed areas where there is no reasonable expectation of returning to natural conditions.

D. Construction Management Plans

A construction management plan prepared in accordance with Subsection 19.402.9 is required with each natural resource management plan.

E. Ongoing Maintenance

Natural resource management plans ~~shall~~ must demonstrate how ongoing maintenance is part of the associated restoration or enhancement activities.

F. Expiration of Plans

The approval of a natural resource management plan ~~shall be~~ is valid for five (5) years. Approved plans may be renewed through the Type I review process by demonstrating that the original approved plan still meets the criteria provided in Subsection 19.402.10.C. Plans that demonstrate an adaptive management component and/or that involve partnership with one of the agencies noted in Subsection 19.402.10.A may be approved as valid for up to 20 years upon request.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards ~~shall~~ apply:

1. Work areas ~~shall~~ must be marked to reduce potential damage to the WQR and/or HCA.
2. Trees in WQRs or HCAs ~~shall~~ must not be used as anchors for stabilizing construction equipment.
3. Native soils disturbed during development ~~shall~~ must be conserved on the property.
4. An erosion and sediment control plan is required and ~~shall~~ must be prepared in compliance with requirements set forth in the City's Public Works Standards.
5. Site preparation and construction practices ~~shall~~ must be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to any WQR adjacent to the project area.
6. Stormwater flows that result from proposed development within and to natural drainage courses ~~shall~~ must not exceed predevelopment flows.
7. Prior to construction, the WQR and/or HCA that is to remain undeveloped ~~shall~~ must be flagged, fenced, or otherwise marked and ~~shall~~ must remain undisturbed. Such markings ~~shall~~ must be

maintained until construction is complete.

8. The construction phase of the development ~~shall~~ must be done in such a manner as to safeguard the resource portions of the site that have not been approved for development.
9. Where practicable, lights ~~shall~~ must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting ~~shall~~ must be selected so that impacts to habitat functions are minimized.
10. All work on the property ~~shall~~ must conform to a construction management plan prepared according to Subsection 19.402.9.
11. The applicable provisions of Chapter 16.32 ~~shall~~ must be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards ~~shall~~ apply:

1. Disturbance

   a. Designated natural resources that are affected by temporary disturbances ~~shall~~ must be restored, and those affected by permanent disturbances ~~shall~~ must be mitigated, in accordance with the standards provided in Subsection 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs, as applicable.

   b. Landscape plantings are not considered to be disturbances, except for those plantings that are part of a non-exempt stormwater facility; e.g., raingarden or bioswale.

2. Required Plants

   Unless specified elsewhere in Section 19.402, all trees, shrubs, and ground cover planted as mitigation ~~shall~~ must be native plants, as identified on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List. Applicants are encouraged to choose particular native species that are appropriately suited for the specific conditions of the planting site; e.g., shade, soil type, moisture, topography, etc.

3. Plant Size

   Required mitigation trees ~~shall~~ must average at least a ½-in caliper—measured at 6 in above the ground level for field-grown trees or above the soil line for container-grown trees—unless they are oak or madrone, which may be 1-gallon size. Required mitigation shrubs ~~shall~~ must be at least 1-gallon size and 12 in high.

4. Plant Spacing

   Trees ~~shall~~ must be planted between 8 and 12 ft on center. Shrubs ~~shall~~ must be planted between 4 and 5 ft on center or clustered in single-species groups of no more than four (4) plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree ~~shall be~~ is the starting point for plant spacing measurements. Note that in meeting the Tree Planting Standards in ~~s~~Subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the requirements in Table 16.32.042.~~C~~D. The additional trees required by this subsection may be excluded from contributing to the Tree ~~Canopy Requirements~~ Planting Standards in Subsection 16.32.042.C.

5. Plant Diversity

   Shrubs ~~shall~~ must consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees ~~shall~~ can be of the same genus.

6. Location of Mitigation Area

a. On-Site Mitigation

All mitigation vegetation ~~shall~~ must be planted on the applicant's site within the designated natural resource that is disturbed, or in an area contiguous to the resource area; however, if the vegetation is planted outside of the resource area, the applicant ~~shall~~ must preserve the contiguous planting area by executing a deed restriction such as a restrictive covenant.

b. Off-Site Mitigation

(1) For disturbances allowed within WQRs, off-site mitigation ~~shall~~ cannot be used to meet the mitigation requirements of Section 19.402.

(2) For disturbances allowed within HCAs, off-site mitigation vegetation may be planted within an area contiguous to the subject-property HCA, provided there is documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site. If the off-site mitigation is not within an HCA, the applicant ~~shall~~ must document that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant.

7. Invasive Vegetation

Invasive nonnative or noxious vegetation ~~shall~~ must be removed within the mitigation area prior to planting, including, but not limited to, species identified as nuisance plants on the Milwaukie ~~Native~~ Plant List.

8. Ground Cover

Bare or open soil areas remaining after the required tree and shrub plantings ~~shall~~ must be planted or seeded to 100% surface coverage with grasses or other ground-cover species identified as native on the Milwaukie ~~Native~~ Plant List. Revegetation ~~shall~~ must occur during the next planting season following the site disturbance.

9. Tree and Shrub Survival

A minimum of 80% of the trees and shrubs planted ~~shall~~ must remain alive on the second anniversary of the date that the mitigation planting is completed.

a. Required Practices

To enhance the survival of the mitigation plantings, the following practices are required:

(1) Mulch new plantings to a minimum of 3-in depth and 18-in diameter to retain moisture and discourage weed growth.

(2) Remove or control ~~nonnative~~ nuisance or noxious vegetation throughout the maintenance period.

b. Recommended Practices

To enhance the survival of tree replacement and vegetation plantings, the following practices are recommended:

(1) Plant bare root trees between December 1 and April 15; plant potted plants between October 15 and April 30.

(2) Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and the resulting damage to plants.

(3) Water new plantings at a rate of 1 in per week between June 15 and October 15 for the first two (2) years following planting.

c. Monitoring and Reporting

Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die ~~shall~~ must be replaced in kind as needed to ensure the minimum 80% survival rate. The Planning ~~Director~~ Manager may require a maintenance bond to cover the continued health and survival of all plantings. A maintenance bond ~~shall~~ is not ~~be~~ required for land use applications related to owner-occupied single-family residential projects. An annual report on the survival rate of all plantings ~~shall~~ must be submitted for two (2) years.

10. Light Impacts

Where practicable, lights ~~shall~~ must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting ~~shall~~ must be selected so that impacts to habitat functions are minimized.

C. Mitigation Requirements for Disturbance within WQRs

1. The requirements for mitigation vary depending on the existing condition of the WQR on the project site at the time of application. The existing condition of the WQR ~~shall~~ must be assessed in accordance with the categories established in Table 19.402.11.C.
2. When disturbance within a WQR is approved according to the standards of Section 19.402, the disturbance ~~shall~~ must be mitigated according to the requirements outlined in Table 19.402.11.C and the standards established in Subsection 19.402.11.B.

Table 19.402.11.C **WQR Mitigation ~~Requirements for WQRs~~**	
Existing Condition of WQR **(What conditions for water quality and wildlife habitat are provided by the extent and character of existing vegetation?)**	**Mitigation Requirements**
Class A ("Good") **~~Extent and character of existing vegetation provides good conditions for water quality and wildlife habitat~~**	
Combination of trees, shrubs, and ground cover are 80% present, with more than 50% tree canopy coverage in vegetated corridor.	• Submit a plan for mitigating water quality impacts related to the development, including~~:~~ sediments, temperature, nutrients, or any other condition that may have caused the protected water feature to be listed on DEQ's 303(d) list. • Restore and replant disturbed areas with native species from the Milwaukie Plant List, using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site. • Inventory and remove debris, ~~and~~ noxious materials, and nuisance species vegetation. • Plant and/or seed all bare areas to provide 100% surface coverage.
Class B ("Marginal") **~~Extent and character of existing vegetation provides marginal conditions for water quality and wildlife habitat~~**	
Combination of trees, shrubs, and ground cover are 80% present, with at least 25-50% canopy coverage in vegetated corridor.	• Restore and ~~mitigate~~ replant disturbed areas with native species from the Milwaukie ~~Native~~ Plant List, using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site. • Inventory and remove debris, ~~and~~ noxious materials, and nuisance species vegetation. • Plant and/or seed all bare areas to provide 100% surface coverage.
Class C ("Poor") **~~Extent and character of existing vegetation provides poor conditions for water quality and wildlife habitat~~**	
Combination of trees, shrubs, and ground cover are less than 80% present; and/or less	• Restore and mitigate disturbed areas with native species from the Milwaukie ~~Native~~ Plant List, using a

Table 19.402.11.C **WQR Mitigation ~~Requirements for WQRs~~**	
Existing Condition of WQR **(What conditions for water quality and wildlife habitat are provided by the extent and character of existing vegetation?)**	**Mitigation Requirements**
than 25% canopy coverage in vegetated corridor.	City-approved plan developed to represent the vegetative composition that would naturally occur on the site. • ~~Plant and/or seed all bare areas to provide 100% surface coverage.~~ • Inventory and remove debris, ~~and~~ noxious materials, and nuisance species vegetation. • Plant and/or seed all bare areas to provide 100% surface coverage.

D. ~~Nondiscretionary Standards for HCAs~~ HCA Disturbance

~~The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only.~~

1. General Provisions for Disturbance ~~Area Limitations~~ in HCAs

~~To avoid or minimize impacts to HCAs, activities that are not otherwise exempt from the requirements of Section 19.402, and that would disturb an HCA, are subject to the following disturbance area limitations, as applicable:~~

~~a. Single Detached and Middle Housing Residential Uses~~

~~The amount of disturbance allowed within an HCA for residential uses, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.~~

~~**Figure 19.402.11.D.1.a**~~ ~~**Method for Calculating Allowable Disturbance within an HCA for Single Detached Dwellings and Middle Housing Residential Uses**~~
~~**X** = The maximum potential disturbance area within the HCA, which is 50% of the total HCA, up to a maximum of 5,000 sq ft.~~ ~~**Y** = The area of the lot or parcel outside the total resource area (WQR and HCA).~~ ~~**Z** = The net amount of disturbance area allowed within the HCA (Z = X-Y).~~
~~**If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.**~~ ~~Example 1: 8,000 sq ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR X = 1,500 sq ft (50% of HCA)~~

~~**Figure 19.402.11.D.1.a**~~ ~~**Method for Calculating Allowable Disturbance within an HCA for Single Detached Dwellings and Middle Housing Residential Uses**~~
~~Y = 5,000 sq ft outside of HCA/WQR~~ ~~Z = -3,500 sq ft (1,500 sq ft – 5,000 sq ft)~~
~~**Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.**~~ ~~Example 2: 8,000 sq ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR X = 3,000 sq ft (50% of HCA)~~ ~~Y = 2,000 sq ft outside of HCA/WQR~~ ~~Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)~~
~~**Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.**~~

~~b. All Other Uses~~

~~A maximum net disturbance area of 10% of the HCA on the site is allowed by right, subject to the mitigation requirements described in Subsection 19.402.11.D.2.~~

a~~c~~. Temporary and Permanent Disturbances

All disturbances within an HCA that occur during construction or other ~~D~~development activities, whether temporary or permanent disturbances, count equally for the purposes of calculating and tracking the maximum disturbance area allowed for a particular site. Disturbance resulting from any activity deemed exempt per Subsection 19.402.4 ~~shall~~ will not be counted against the amount of disturbance allowed by Subsection 19.402.

b~~d~~. Disturbance in Excess of that Allowed by Section 19.402

In accordance with Subsection 19.402.8, proposed development that would disturb more HCA than allowed by Subsections 19.402.11.D.1.a and b ~~shall be~~ is subject to the Type III review process and general discretionary review criteria, as outlined in Subsection 19.402.12.C.1.

c~~e~~. Disturbance Changes HCA Status

When disturbances within HCAs are allowed~~,~~ in accordance with the applicable provisions of Section 19.402, the City ~~shall~~ will remove the HCA designation from such disturbance areas on the NR ~~Administrative~~ Map, as provided in Subsection 19.402.15.B.

In the case of a request to develop within an HCA on a property where a prior development request was subject to the disturbance area limitations of Subsection 19.402.11.D.1, the calculation of the new amount of disturbance area allowed within the HCA on the property ~~shall~~ will be based on the mapped location of the HCA at the time of the request, notwithstanding any previous calculation of allowed disturbance area.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4.A or approvable through Type I review (Subsection 19.402.6.A).

An applicant ~~shall~~ must meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is one acre or more, the applicant ~~shall~~ must comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in Section 16.32.042 ~~shall~~ must be met when applicable.

a. Mitigation Option 1

This mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site ~~shall~~ must be replaced as shown in Table 19.402.11.D.2.a. Conifers ~~shall~~ must be replaced with conifers. Bare ground ~~shall~~ must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Table 19.402.11.D.2.a
Tree Replacement

Size of Tree to be Removed (inches in diameter)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

b. Mitigation Option 2

This mitigation requirement is calculated based on the size of the disturbance area within an HCA. Native trees and shrubs are required to be planted at a rate of 5 trees and 25 shrubs per 500 sq ft of disturbance area. This is calculated by dividing the number of square feet of disturbance area by 500, multiplying that result times 5 trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs. For example, if there will be 330 sq ft of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times 5 equals 3.3, so 3 trees must be planted, and 0.66 times 25 equals 16.5, so 17 shrubs must be planted. Bare ground ~~shall~~ must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

c. Adjustments to HCA Mitigation Requirements

Proposals to vary the number or size of trees and shrubs required as mitigation in Subsection 19.402.11.D.2 ~~shall be~~ are subject to the Type II review process and the requirements of Subsection 19.402.12.C.2.

E. Standards for Special Uses

Unless they are exempt per Subsection 19.402.4, or do not meet the nondiscretionary standards for HCAs provided in 19.402.11.D, the special uses listed in Subsection 19.402.7.A are subject to Type II review if they comply with the applicable standards in Subsection 19.402.11.E. Otherwise, the special uses listed in Subsection 19.402.7.A are subject to Type III review and the general discretionary review criteria provided in Subsection 19.402.12.

1. General Standards for Special Uses

   Except for stormwater management plans, all nonexempt special uses listed in Sub~~S~~sections 19.402.11.E.2 through 5 that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D ~~shall~~ must comply with the specific applicable standards in Subsection 19.402.11.E, as well as with the following general standards:

   a. In addition to a construction management plan prepared according to the standards of Subsection 19.402.9~~;~~, a mitigation plan ~~shall~~ must be submitted per Subsection 19.402.11.D.2 or 19.402.12.C.2 for HCAs, as applicable, or per Subsection 19.402.11.C for WQRs. WQRs and HCAs ~~shall~~ must be restored and maintained in accordance with the approved mitigation plan.

   b. Existing vegetation outside of approved work areas shall be protected and left in place. Work areas ~~shall~~ must be carefully located and marked to reduce potential damage to WQRs and HCAs. Trees in WQRs or HCAs ~~shall~~ must not be used as anchors for stabilizing construction equipment.

   c. Where existing vegetation has been removed, or the original land contours disturbed, the site ~~shall~~ must be revegetated and the vegetation ~~shall~~ must be established as soon as practicable. Interim erosion control measures, such as mulching, ~~shall~~ must be used to avoid erosion on bare areas.

2. Public or Private Utility Facilities

   In addition to the requirements of Subsection 19.402.11.E.1, the following disturbance area limitations apply to all new public and private utility facilities, as well as to facility upgrades that are not exempted by Subsection 19.402.4 or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D.

   a. The disturbance area for the upgrade of existing utility facilities ~~shall~~ can be no greater than 15 ft wide.

   b. The disturbance area for new underground utility facilities ~~shall~~ can be no greater than 25 ft wide and disturb no more than 200 linear feet of WQR within any 1,000-linear-foot stretch of WQR. Such a disturbance area ~~shall~~ must be restored with the exception of necessary access points to the utility facility.

   c. Disturbance areas shall be revegetated.

   d. No fill or excavation is allowed within the ordinary high water mark of a stream, unless a permit is obtained from the Corps through the Standard Local Operating Procedures for Endangered Species (SLOPES) process.

3. New Stormwater Facilities

   In addition to the requirements of Subsection 19.402.11.E.1, new stormwater facilities that are not exempted by Subsection 19.402.4, or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D, ~~shall~~ must not encroach more than 25 ft into the outer boundary of the WQR adjacent to a primary protected water feature.

4. Walkways and Bike Paths

   In addition to the requirements of Subsection 19.402.11.E.1~~;~~, walkways and bike paths that are not exempted by Subsection 19.402.4, or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D, and that are proposed to be constructed or improved with gravel, permeable pavement, pavers, wood, or other materials, ~~shall~~ must comply with the following standards:

   a. Walkways and bike paths within WQRs or HCAs ~~shall~~ cannot exceed a 12-ft width.

   b. If the proposed walkway or bike path will be located within a WQR and will be paved, then, for the purposes of evaluating the proposed project, the vegetated corridor ~~shall~~ must be widened by the width of the walkway or bike path.

   c. The walkway or bike path ~~shall~~ must be designed to avoid WQRs and HCAs, to the greatest extent practicable, and ~~shall~~ must be constructed so as to minimize disturbance to existing vegetation and slope stability.

   d. The walkway or bike path ~~shall~~ must be a minimum of 10 ft from the boundary of the protected water feature.

   e. Where practicable, any lights associated with the walkway or bike path ~~shall~~ must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting ~~shall~~ must be selected so that impacts to habitat functions are minimized.

5. Stormwater Management Plans

   Stormwater management plans that authorize disturbance within the WQR or HCA may be approved if in compliance with all of the following standards:

   a. Stormwater facilities will be designed to provide an environmentally beneficial hydrological impact on protected water features.

   b. Protected water features will be protected from erosion by implementing a stream protection strategy and quantity control strategies.

   c. Watershed health will be improved through the use of vegetated facilities to meet pollution reduction, flow control, and infiltration goals. These facilities will be maintained in a manner that ensures a continued benefit to watershed health.

   d. Proposed stormwater management facilities will correct or improve conditions caused by past management and/or disturbance events, if any are present.

   e. Where there is no reasonable expectation of returning to natural conditions, beneficial habitat, vegetation, and stream function and hydrology will be restored to the fullest extent practicable within developed areas.

19.402.12 General Discretionary Review

This subsection establishes a discretionary process by which the City ~~shall~~ will analyze the impacts of development on WQRs and HCAs, including measures to prevent negative impacts and requirements for mitigation and enhancement. The Planning ~~Director~~ Manager may consult with a professional with appropriate expertise to evaluate an application, or they may rely on appropriate staff expertise to properly evaluate the report's conclusions.

A. Impact Evaluation and Alternatives Analysis

   An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria for general discretionary review and to evaluate ~~D~~development alternatives for a particular property. A report presenting this evaluation and analysis ~~shall~~ must be prepared and

signed by a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist. At the Planning ~~Director's~~ Manager's discretion, the requirement to provide such a report may be waived for small projects that trigger discretionary review but can be evaluated without professional assistance.

The alternatives ~~shall~~ will be evaluated on the basis of their impact on WQRs and HCAs, the ecological functions provided by the resource on the property, and offsite impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The evaluation and analysis ~~shall~~ must include the following:

1. Identification of the ecological functions of riparian habitat found on the property, as described in Subsection 19.402.1.C.2.
2. An inventory of vegetation, sufficient to categorize the existing condition of the WQR per Table 19.402.11.C, including the percentage of ground and canopy coverage materials within the WQR.
3. An assessment of the water quality impacts related to the development, including sediments, temperature and nutrients, sediment control, and temperature control, or any other condition with the potential to cause the protected water feature to be listed on DEQ's 303(d) list.
4. An alternatives analysis, providing an explanation of the rationale behind choosing the alternative selected, listing measures that will be taken to avoid and/or minimize adverse impacts to designated natural resources, and demonstrating that:
   a. No practicable alternatives to the requested development exist that will not disturb the WQR or HCA.
   b. Development in the WQR and/or HCA has been limited to the area necessary to allow for the proposed use.
   c. If disturbed, the WQR can be restored to an equal or better condition in accordance with Table 19.402.11.C~~;~~ and the HCA can be restored consistent with the mitigation requirements of Subsection 19.402.11.D.2.
   d. Road crossings will be minimized as much as possible.
5. Evidence that the applicant has done the following, for applications proposing routine repair and maintenance, alteration, and/or total replacement of existing structures located within the WQR:
   a. Demonstrated that no practicable alternative design or method of ~~D~~development exists that would have a lesser impact on the WQR than the one proposed. If no such practicable alternative design or method of development exists, the project ~~shall~~ will be conditioned to limit its disturbance and impact on the WQR to the minimum extent necessary to achieve the proposed repair/maintenance, alteration, and/or replacement.
   b. Provided mitigation to ensure that impacts to the functions and values of the WQR will be mitigated or restored to the extent practicable.
6. A mitigation plan for the designated natural resource that contains the following information:
   a. A description of adverse impacts that will be caused as a result of ~~D~~development.
   b. An explanation of measures that will be taken to avoid, minimize, and/or mitigate adverse impacts to the designated natural resource~~;~~ in accordance with, but not limited to, Table 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs.
   c. Sufficient description to demonstrate how the following standards will be achieved:
      (1) Where existing vegetation has been removed, the site ~~shall~~ must be revegetated as soon as practicable.

(2) Where practicable, lights ~~shall~~ must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting ~~shall~~ must be selected so that impacts to habitat functions are minimized.

(3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous; particularly along natural drainage courses, except where mitigation is approved; so as to provide a transition between the proposed development and the designated natural resource and to provide opportunity for food, water, and cover for animals located within the WQR.

d. A map showing where the specific mitigation activities will occur. Off-site mitigation related to WQRs ~~shall~~ cannot be used to meet the mitigation requirements of Section 19.402.

e. An implementation schedule; including a timeline for construction, ~~M~~mitigation, mitigation maintenance, monitoring, and reporting; as well as a contingency plan. All in-stream work in fish-bearing streams ~~shall~~ be done in accordance with the allowable windows for in-water work as designated by ODFW.

B. Approval Criteria

1. Unless specified elsewhere in Section 19.402, applications subject to the discretionary review process ~~shall~~ must demonstrate how the proposed activity complies with the following criteria:

a. Avoid

The proposed activity avoids the intrusion of development into the WQR and/or HCA to the extent practicable. The proposed activity ~~shall~~ must have less detrimental impact to the designated natural resource than other practicable alternatives, including significantly different practicable alternatives that propose less development within the resource area.

b. Minimize

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity within the resource area ~~shall~~ must minimize detrimental impacts to the extent practicable.

(1) The proposed activity ~~shall~~ must minimize detrimental impacts to ecological functions and loss of habitat, consistent with uses allowed by right under the base zone, to the extent practicable.

(2) To the extent practicable within the designated natural resource, the proposed activity ~~shall~~ must be designed, located, and constructed to:

(a) Minimize grading, removal of native vegetation, and disturbance and removal of native soils; by using the approaches described in Subsection 19.402.11.A, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation).

(b) Minimize adverse hydrological impacts on water resources.

(c) Minimize impacts on wildlife corridors and fish passage.

(d) Allow for use of other techniques to further minimize the impacts of development in the resource area; such as using native plants throughout the site (not just in the resource area), locating other required landscaping adjacent to the resource area, reducing light spill-off into the resource area from development, preserving and maintaining existing trees and tree canopy coverage, and/or planting trees where appropriate to maximize future tree canopy coverage.

c. Mitigate

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity ~~shall~~ must mitigate for adverse impacts to the resource area. All proposed mitigation plans ~~shall~~ must meet the following standards:

(1) The mitigation plan ~~shall~~ must demonstrate that it compensates for detrimental impacts to the ecological functions of resource areas, after taking into consideration the applicant's efforts to minimize such detrimental impacts.

(2) Mitigation ~~shall~~ must occur on the site of the disturbance, to the extent practicable. Off-site mitigation for disturbance of WQRs ~~shall~~ will not be approved. Off-site mitigation for disturbance of HCAs ~~shall~~ will be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and if the applicant has documented that they can carry out and ensure the success of the off-site mitigation as outlined in Subsection 19.402.11.B.5.

In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant ~~shall~~ must demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.

(3) All revegetation plantings ~~shall~~ must use native plants listed on the ~~Oregon Noxious Weed List or~~ Milwaukie ~~Invasive Tree~~ Plant List.

(4) All in-stream work in fish-bearing streams ~~shall~~ must be done in accordance with the allowable windows for in-water work as designated by ODFW.

(5) A mitigation maintenance plan ~~shall~~ must be included and ~~shall~~ must be sufficient to ensure the success of the planting. Compliance with the plan ~~shall~~ will be a condition of development approval.

2. Municipal Water Utility Facilities Standards

In addition to all other applicable criteria of Subsection 19.402.12.B, and if not already exempted by Subsection 19.402.4~~;~~, municipal potable water, stormwater, and wastewater utility facilities (which may include, but are not limited to, water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines, terminal storage reservoirs, and outfall devices) may be built, expanded, repaired, maintained, reconfigured, rehabilitated, replaced, or upsized in accordance with the following criteria:

a. Such projects ~~shall~~ are not ~~be~~ required to avoid the resource area per Sub~~S~~section 19.402.12.B.1.a, provided that, where practicable, the project does not encroach closer to a protected water feature than existing operations and development; or, for new projects where there are no existing operations or development, provided that the project does not encroach closer to a ~~P~~protected water feature than practicable.

b. Best management practices will be employed that accomplish all of the following:

(1) Account for watershed assessment information in project design.

(2) Minimize the trench area and tree removal within the resource area.

(3) Utilize and maintain erosion controls until other site stabilization measures are established, post-construction.

(4) Replant immediately after backfilling, or as soon as effective.

(5) Preserve wetland soils and retain soil profiles.

(6) Minimize compactions and the duration of the work within the resource area.

(7) Complete in-water construction during appropriate seasons, or as approved within requisite federal or ~~S~~state permits.

(8) Monitor water quality during the construction phases, if applicable.

(9) Implement a full inspection and monitoring program during and after project completion, if applicable.

C. Limitations and Mitigation for Disturbance of HCAs

1. Discretionary Review to Approve Additional Disturbance within an HCA

An applicant seeking discretionary approval to disturb more of an HCA than is allowed by Subsection 19.402.11.D.1 ~~shall~~ must submit an Impact Evaluation and Alternatives Analysis, as outlined in Subsection 19.402.12.A, and ~~shall~~ will be subject to the approval criteria provided in Subsection 19.402.12.B.

An applicant may use the nondiscretionary mitigation options presented in Subsection 19.402.11.D.2 as a guide for proposing mitigation measures that will then be evaluated against the approval criteria provided in Subsection 19.402.12.B.

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs)~~,~~ but who will comply with all other applicable provisions of Subsection 19.402.11~~, shall~~ will be subject to the following process:

a. The applicant shall submit the following information:

(1) A calculation of the number and size of trees and shrubs the applicant would be required to plant under Subsection 19.402.11.D.2.

(2) The number and size of trees and shrubs that the applicant proposes to plant.

(3) An explanation of how the proposed number and size of trees and shrubs will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2. Such explanation ~~shall~~ must be prepared and signed by a knowledgeable and qualified natural resource professional or a certified landscape architect. It ~~shall~~ must include discussion of site preparation including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, and planting season; and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control.

(4) A mitigation, site-monitoring, and site-reporting plan.

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.

b. Approval of the request shall be based on consideration of the following:

(1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.

(2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.

(3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.402.13 Land Division and Property Line Adjustments

The following standards apply to property line adjustments and all forms of land division defined in Chapter 17.08. These standards apply in addition to the applicable requirements provided in Title 17 Land Division and elsewhere in Title 19 Zoning. Lot consolidations, as defined in Chapter 17.08, are not subject to the provisions of Section 19.402.

A. Boundary Verification

Whether or not an applicant believes the NR ~~Administrative~~ Map is accurate, the applicant ~~shall~~ must verify the boundaries of the WQR and HCA on the property according to Subsection 19.402.15.

B. Construction Management Plans

1. In accordance with Subsection 19.402.9, a construction management plan is required for applications for land division that will require physical site improvements (e.g., grading and/or construction of structures, streets, or utilities) within, or within 100 ft of, a WQR or HCA.
2. A construction management plan is not required for applications for land division that do not require grading; constructing structures, streets, or utilities; or making other physical improvements to the site.

C. Impacts from Site Improvements

Applications for land division that will require physical site improvements (e.g., grading and/or the construction of streets, sidewalks, culverts, bridges, or utilities) within a WQR or HCA ~~shall~~ must comply with the relevant standards for disturbance limitation and mitigation provided in Subsections 19.402.11 and/or 19.402.12, as applicable.

D. Mitigation for Future Structures or Improvements

Applications proposing a division of land on which future construction may impact a WQR or HCA ~~shall~~ must comply with one of the following two standards:

1. Complete the mitigation requirements for any impacts to the WQR or HCA, in accordance with the requirements of Section 19.402, thereby exempting all subsequent ~~D~~development on lots containing a WQR and/or HCA from further review if in compliance with the related approval. When mitigation is required for new streets created as part of a subdivision, as outlined in Subsection 19.402.13.~~I~~H, such mitigation ~~shall~~ must be completed prior to approval of the final plat for the subdivision, unless the Planning Commission's approval establishes a different schedule.
2. Not complete the mitigation requirements, thus requiring that any subsequent ~~D~~development be subject to review under Section 19.402.

E. Property Line Adjustments

Applications for property line adjustment, when any of the properties include HCAs, ~~shall~~ must address the resulting change in the percentage of HCA coverage on each property and demonstrate compliance with one of the following standards:

1. The proposed property line adjustment will result in no more than a 30-point difference in the percentage of HCA coverage on each property. Such an adjustment ~~shall be~~ is subject to the Type I review process.
2. The proposed property line adjustment will not contravene a condition of approval related to HCA distribution from a previously approved land division. Such an adjustment ~~shall be~~ is

subject to the Type I review process.

3. The proposed property line adjustment cannot meet the standard of Subsection 19.402.13.E.1, above, but will result in the smallest practicable difference in the percentage of HCA coverage on each property. Furthermore, the new boundary configuration will mitigate, to the extent practicable, the potential future impacts to the HCA from access and development. Such an adjustment ~~shall be~~ is subject to the Type II review process.

~~F. Replats~~

~~For the purpose of compliance with Section 19.402, replats that result in 3 or fewer lots shall be processed as partitions; replats that result in 4 or more lots shall be processed as subdivisions.~~

F~~G~~. Low-Impact Partitions

Applications for partitions are subject to ~~Type II~~ Type I review if they demonstrate compliance with the following standards:

1. For properties that contain HCAs, but no WQRs, and where the HCA covers 85% or less of the total lot area, the partition ~~shall~~ must achieve either of the following results:
   a. There ~~shall~~ must be no more than a 30-point difference in the percentage of HCA coverage on each of the new parcels. For example, a ~~2~~two-lot partition that would produce one parcel that is 55% HCA and the other that is 30% HCA is permissible with ~~Type II~~ Type I review~~;~~, whereas~~,~~ a ~~2~~two-lot partition that would produce one parcel that is 75% HCA and the other that is 40% HCA is not permissible with ~~Type II~~ Type I review and ~~shall~~ will be subject to the standards of Subsection 19.402.13.~~H~~G.
   b. At least 90% of the original property's HCA is on a separate unbuildable parcel, protected by a conservation restriction.
2. For properties that contain WQRs, the applicant ~~shall~~ must place 100% of the WQR in a separate unbuildable tract, protected by a conservation restriction.
3. For properties that contain both WQRs and HCAs, the applicant ~~shall~~ must comply with both of the standards listed above in Subsections 19.402.13.~~G~~F.1 and 2.
4. For properties where the HCA covers more than 85% of the total lot area, the proposed partition ~~shall be~~ is subject to the standards and review process established in Subsection 19.402.13.~~H~~G.

G~~H~~. All Other Partitions

Applications for partitions that cannot comply with Subsection 19.402.13.~~G~~F are subject to ~~Type III~~ Type II review and ~~shall~~ must comply with one of the following two standards:

1. For properties that do not contain any WQRs, but for which it is not practicable to comply with the partition standards in Subsection 19.402.13.~~G~~F.1, and where the HCA covers 85% or less of the total lot area, the application ~~shall~~ must meet the following standards and is not subject to the requirements of Subsection 19.402.12:
   a. The partition plan ~~shall~~ will result in the smallest practicable percentage point difference in HCA coverage on the parcels created by the partition.
   b. To the extent practicable, the parcel configuration ~~shall~~ will mitigate the potential future impacts to the HCA from access and development.
2. For properties that contain WQRs but cannot comply with Subsection 19.402.13.~~G~~F.2, that contain both WQRs and HCAs but cannot comply with Subsection 19.402.13.~~G~~F.3, or where the HCA covers more than 85% of the total lot area, the application ~~shall~~ must comply with the following standards:

a. To the extent practicable, the parcel configuration ~~shall~~ must mitigate the potential future impacts to WQRs from access and development.

b. An Impact Evaluation and Alternatives Analysis ~~shall~~ must be prepared in accordance with the relevant portions of Subsection 19.402.12.A.

c. For properties where the HCA covers more than 85% of the total lot area, the Impact Evaluation and Alternatives Analysis ~~shall~~ must address how the applicant's proposal retains the greatest practicable degree of contiguity of the HCA across the new parcels.

H~~I~~. Subdivisions

Applications for subdivisions are subject to ~~Type III~~ Type II review and ~~shall~~ must comply with one of the following two standards:

1. At least 90% of the property's HCA and 100% of the property's WQR ~~shall~~ must be located in a separate tract. Applications that meet this standard are not subject to the discretionary review requirements of Subsection 19.402.12.

2. If a subdivision cannot comply with the standards in Subsection 19.402.13.~~I~~H.1, the application ~~shall~~ must comply with the following standards:

   a. All proposed lots ~~shall~~ must have adequate buildable area outside of the WQR and HCA.

   b. To the extent practicable, the lot and access configurations ~~shall~~ must mitigate the potential future impacts to the WQR and HCA from access and ~~D~~development.

   c. An Impact Evaluation and Alternatives Analysis ~~shall~~ must be prepared in accordance with the relevant portions of Subsection 19.402.12.A.

   d. For properties where the HCA covers more than 85% of the total lot area, the Impact Evaluation and Alternatives Analysis ~~shall~~ must address how the applicant's proposal retains the greatest practicable degree of contiguity of the HCA across the new lots.

I~~J~~. Resource Area as a Separate Tract

Where required by Section 19.402, the new subdivision or partition plat ~~shall~~ must delineate and show all WQRs and HCAs as being located in a separate unbuildable tract(s) according to the following process:

1. Prior to preliminary plat approval, the designated natural resource (whether WQR, HCA, or both) ~~shall~~ must be shown as a separate tract(s), which ~~shall~~ cannot be part of any lot or parcel used for construction of any structures.

2. Prior to final plat approval, ownership of the separate natural resource tract(s) ~~shall~~ must be identified to distinguish it from lots or parcels intended for sale. Ownership in common or by a homeowners association is strongly discouraged. The tract(s) may be identified as any one of the following:

   a. Private natural area held by the owner with a restrictive covenant and/or conservation easement.

   b. For residential subdivisions, private natural area subject to an easement conveying storm and surface water management rights to the City of Milwaukie, Clackamas County Water Environment Services, and/or any other relevant jurisdiction, and preventing the owner of the tract from activities and uses inconsistent with the purposes of Section 19.402.

   c. Public natural area where the tract has been dedicated to the City of Milwaukie or a private nonprofit with the mission of land conservation.

3. The boundaries of all such separate tracts ~~shall~~ must be demarcated with stakes, flags, or some

similar means so that the boundaries between tracts and adjacent properties are defined in perpetuity. Fences that prevent the unfettered passage of wildlife ~~shall~~ cannot be installed along the boundary of any tract.

19.402.14 Adjustments and Variances

To encourage applicants to avoid or minimize impacts to WQRs and/or HCAs, several types of adjustments and variances are available for use on any property that includes a WQR or HCA. These include adjustments to specific base zone and lot design standards, discretionary variances, and allowances for residential cluster development.

A. Adjustments

The adjustments provided in Subsection 19.402.14.A ~~shall~~ cannot be used to avoid the requirement to submit a construction management plan, if deemed applicable per Subsection 19.402.3. The following adjustments are allowed by right as part of any Type I, II, or III application:

1. Adjustments to Base Zone Standards

   a. Yard Setback (General)

      Yard setback standards may be adjusted by up to 10%. This allowance applies only to the yard requirements established in base zones and does not apply to additional yard requirements for conditional uses or community service uses, yard exceptions established in Subsection 19.501.2, or ~~T~~transition area measures established in Subsection 19.504.~~6~~4.

   b. Rear Yard Setback (Limited)

      For residential development, if the subject property is adjacent to a separate tract that was established according to the standards of Subsection 19.402.13.J~~,~~ and the tract is adjacent to the rear yard of the subject property, the minimum rear yard requirement may be reduced to 10 ft.

2. Adjustments to Lot Design Standards

   When property boundaries are changed and/or land divided per Title 17 Land Division, an applicant may utilize the following adjustments to avoid or minimize impacts to a WQR or HCA:

   a. The minimum base zone standards for lot width and lot depth may be reduced by up to 10%.

   b. The minimum lot frontage required on a public street may be reduced by up to 10%.

B. Variances

1. Requests to vary any standards beyond the adjustments allowed in Subsections 19.402.14.A or B ~~shall be~~ are subject to the review process and approval criteria for variances established in Section 19.911.

2. In granting any variance request related to Section 19.402, the Planning Commission may impose such conditions as are deemed necessary to minimize adverse impacts that may result from granting the variance. Examples of such conditions include, but are not limited to, maintaining a minimum width of the vegetated corridor alongside a primary protected water feature and limiting the amount of WQR for which the adjacent vegetated corridor width can be reduced.

~~C. Residential Cluster Development~~

~~For residential proposals, development may be clustered so that land can be developed at allowed densities while avoiding or minimizing impacts to WQRs or HCAs. The intent of this section is to encourage creative and flexible site design that enables the allowable density to be transferred elsewhere on a site to protect environmentally sensitive areas and preserve open space and natural~~

~~features. A residential cluster development may be permitted in any residential or mixed-use zoning district, subject to Type III review and approval by the Planning Commission. A cluster development proposal may be considered in conjunction with a proposal for land division or property line adjustment as provided in Subsection 19.402.13.~~

~~1. Calculation of Permitted Number of Dwelling Units~~

~~a. The maximum number of dwelling units proposed for a residential cluster development shall not exceed the number of dwelling units otherwise permitted for the residential zoning district in which the parcel is located. The number of units allowed on a parent lot may be transferred to one or more newly created lots or parcels on the site. The cumulative density for all lots or parcels shall not exceed the density allowed for the parent lot.~~

~~b. The number of permitted dwelling units on a site shall be calculated in the following manner:~~

~~(1) Measure the gross area of the proposed cluster development site in acres and tenths of an acre.~~

~~(2) From the gross area, subtract the area of public streets, other publicly dedicated improvements, and common open space (whether or not it is conveyed pursuant to Subsection 19.402.14.C.2.c), measured in acres and tenths of an acre. The remainder shall be the net buildable area.~~

~~(3) Convert the net buildable area from acres to square feet, using the equivalency of 43,560 sq ft = 1 acre.~~

~~(4) Divide the net buildable area by the smallest minimum lot size (in square feet) per unit for a dwelling unit permitted in the zoning district. This figure shall be rounded to the nearest lower number to establish the maximum number of dwelling units permitted in the cluster development.~~

~~2. Development Standards~~

~~a. All principal and accessory uses authorized in the underlying zoning district(s) shall be allowed in the cluster development. In addition, singlefamily attached dwellings, multifamily dwellings, and townhouses may be permitted for a cluster development located in a residential zoning district that does not otherwise allow attached dwelling units.~~

~~b. Maximum lot coverage, building height, and off-street parking requirements for the applicable zoning district shall apply to the cluster development. Maximum lot coverage, floor area ratios, and off-street parking requirements shall be applied to the entire site rather than to any individual lot.~~

~~c. The following provisions shall apply to any residential cluster development, regardless of the general requirements of the applicable residential zoning district:~~

~~(1) The adjustments allowed by Subsection 19.402.14.A shall be available for cluster development proposals.~~

~~(2) Minimum lot width and lot depth standards shall not apply.~~

~~(3) A minimum separation of 10 ft shall be provided between all principal buildings and structures.~~

~~(4) A minimum yard or common open space shall be provided, with a minimum depth of 25 ft, as measured from all public streets and from the side and rear lot lines of the entire cluster development.~~

~~(5) Each lot shall provide at least 12 ft of frontage on a public street.~~

~~(6) More than 1 principal building or structure may be placed on a lot.~~

~~(7) No less than 25% of the site shall be conveyed as common open space.~~

~~(8) No less than 50% of the designated natural resources on the site shall be included in calculating the common open space.~~

~~3. Site Plan Requirements~~

~~The preliminary and final site plans for a residential cluster development shall include the following information, in addition to the items listed on the City's Site Plan Requirements:~~

~~a. The maximum number and type of dwelling units proposed.~~

~~b. The areas of the site on which the dwelling units are to be constructed or are currently located and their size. This may take the form of the footprint of the dwelling unit or a building envelope showing the general area in which the dwelling unit is to be located.~~

~~c. The calculations for the permitted number of dwelling units, derived pursuant to Subsection 19.402.14.C.1.~~

~~d. The areas of the site on which other principal and accessory uses are proposed to be located and their size.~~

~~e. The areas of the site designated for common open space and their size.~~

~~4. Approval Criteria~~

~~a. Proposals for residential cluster development shall demonstrate compliance with the following criteria:~~

~~(1) The site plan satisfies the requirements of Subsections 19.402.14.C.1 and 2.~~

~~(2) Buildings and structures are adequately grouped so that at least 25% of the total area of the site is set aside as common open space. To the greatest degree practicable, common open space shall be designated as a single tract and not divided into unconnected small parcels located in various parts of the development. Common open space shall be conveyed as allowed by Subsection 19.402.13.J.~~

~~(3) Individual lots, buildings, structures, streets, and parking areas are situated to minimize the alteration of natural features, natural vegetation, and topography.~~

~~(4) Impacts to WQRs and HCAs are avoided or minimized to the greatest degree practicable.~~

~~(5) The cluster development advances the purposes established in Subsection 19.402.1.~~

~~b. The Planning Commission may apply such conditions or stipulations to its approval as may be required to maintain harmony with neighboring uses and promote the objectives and purposes of the Comprehensive Plan and the Zoning and Land Division Ordinances.~~

~~c. If the Planning Commission finds that the criteria in Subsection 19.402.14.C.4.a are met, it shall approve the residential cluster Development, subject to any conditions established pursuant to Subsection 19.402.14.C.4.b.~~

19.402.15 Boundary Verification and Map Administration

The NR ~~Administrative~~ Map shows the locations of WQRs and HCAs. For WQRs, the NR ~~Administrative~~ Map is a general indicator of protected water features and their associated vegetated corridors; the location of actual WQRs is determined according to the parameters established in Table 19.402.15. With respect to HCA locations, the NR ~~Administrative~~ Map is assumed to be correct unless demonstrated otherwise.

Table 19.402.15
Determination of WQR Location

Protected Water Feature Type	Slope Adjacent to Protected Water Feature	Starting Point for measurements from Protected Water Feature	Width of Vegetated Corridor[1]
Primary Protected Water Features[2]	< 25%	• Bankful stage (top of bank) or 2-year recurrence interval flood elevation • Delineated edge of Title 3 wetland	50′
Primary Protected Water Features[2]	≥ 25% for 150' or more[3]	• Bankful stage or 2-year flood elevation • Delineated edge of Title 3 wetland	200′
Primary Protected Water Features[2]	≥ 25% for less than 150'[3]	• Bankful stage or 2-year flood elevation • Delineated edge of Title 3 wetland	Distance from starting point of measurement to top of ravine (break in ≥ 25% slope)[4] plus 50′[5]
Secondary Protected Water Features[6]	< 25%	• Bankful stage or 2-year flood elevation	15′
Secondary Protected Water Features[6]	≥ 25%[3]	• Bankful stage or 2-year flood elevation	50′

[1] Vegetated corridor width ~~shall~~ will be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.

[2] Primary protected water features include~~:~~ all perennial streams, streams draining 100 or more acres, Title 3 wetlands, and natural lakes and springs. See Section 19.201 for the full definition.

[3] Vegetated corridors in excess of 50 ft for primary protected features, or in excess of 15 ft for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.

[4] Where the protected water feature is confined by a ravine or gully, the top of ravine is the break in the 25% slope.

[5] A maximum reduction of 25 ft may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that the slope is stable. To establish the width of the vegetated corridor, slope ~~should~~ will be measured in 25-ft increments away from the water feature until the slope is less than 25% (top of ravine).

[6] Secondary protected water features include intermittent streams draining 50 to 100 acres. See Section 19.201 for the full definition.

A. Boundary Verification

To determine whether the standards of Section 19.402 apply to a proposed activity at any given location, the boundaries of any designated natural resource(s) on or near the site ~~shall~~ must be verified.

Agreement with the accuracy of the NR ~~Administrative~~ Map does not constitute or require a land use decision. However, for activities proposed within 100 ft of a wetland or its associated vegetated corridor, the boundary verification process outlined in Subsection 19.402.15.A.2.a(1)(b) ~~shall~~ must be followed to identify the specific location of wetlands on the subject property. The Planning ~~Director~~ Manager may waive the requirement for official wetland delineation, depending on the specific circumstances of the site and the proposed activity. Such circumstances may include, but are not limited to, the scale and potential impacts of the proposed activity, the proximity of the proposed activity to the mapped resource, and the ~~Director's~~ Manager's confidence in the accuracy of the NR ~~Administrative~~ Map relative to the resource in question.

An applicant may challenge the accuracy of the NR ~~Administrative~~ Map through either of the boundary verification processes outlined in Subsections 19.402.15.A.1 and 2.

1. Type I Boundary Verification

   The following minor corrections to mapped HCAs may be proposed according to one of the following procedures, and are subject to Type I review per Section 19.1004:

   a. Simple Incongruities

      In some cases, the vegetative cover data shown on the NR ~~Administrative~~ Map might not align with the location of existing legally established ~~D~~development or tree cover. An applicant who believes that the NR ~~Administrative~~ Map is inaccurate, based on such an obvious misalignment, ~~shall~~ must submit the following information regarding the property:

      (1) A detailed property description and site plan of the property that includes all existing conditions plans listed on the City's Site Plan Requirements checklist.

      (2) A copy of the applicable NR ~~Administrative~~ Map section.

      (3) The latest available aerial photograph of the property, with lot lines shown, at a scale of at least 1 map inch equal to 50 ft for lots of 20,000 or fewer square feet, and a scale of 1 map inch equal to 100 ft for larger lots.

      (4) A documented demonstration of the misalignment between the NR ~~Administrative~~ Map and the property's tax lot boundary lines and/or the location of existing legally established development.

      (5) Any other factual information that the applicant wishes to provide to support boundary verification.

   b. Legal Development Prior to Adoption Date

      If a property was legally developed between the summer of 2002 (when the aerial photograph used to determine the regional habitat inventory was taken) and September 15, 2011, the effective date of Ordinance #2036, the applicant ~~shall~~ must submit the following information regarding the property:

      (1) The information described in Subsection 19.402.15.A.1.a.

      (2) A summer 2002 aerial photograph of the property, with lot lines shown, at a scale of at least 1 map inch equal to 50 ft for lots of 20,000 or fewer square feet, and a scale of 1 map inch equal to 100 ft for larger lots.

      (3) Any approved building permits or other development plans and drawings related to the development of the property that took place between summer 2002 and September 15, 2011, the effective date of Ordinance #2036.

      (4) A clear explanation and documentation, such as supporting maps or drawings or a more recent aerial photograph, indicating the new development that has occurred and where

previously identified habitat no longer exists because it is now part of a developed area.

2. Type II Boundary Verification

Corrections to mapped WQRs and/or detailed verification of mapped HCAs may be proposed according to the following procedures~~,~~ and are subject to Type II review per Section 19.1005.

a. Corrections to WQRs

(1) Submittal Requirements

To propose a correction to a WQR shown on the NR ~~Administrative~~ Map, the applicant ~~shall~~ must submit the following information, depending on the type of water feature in question:

(a) Drainages

In the case of drainages; including rivers, streams, springs, and natural lakes; the applicant ~~shall~~ must submit a report, prepared by a qualified scientist or professional engineer who specializes in hydrology, demonstrating whether or not the drainage meets the definition of a protected water feature. If the drainage is demonstrated to be a protected water feature, the applicant ~~shall~~ must provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the drainage on the subject property.

(b) Wetlands

In the case of wetlands, the applicant ~~shall~~ must submit a wetland delineation report, prepared by a professional wetland specialist in accordance with the 1996 Oregon Freshwater Wetland Assessment Methodology and following the wetlands delineation process established by DSL, demonstrating the location of any wetlands on the site. The delineation report will be accepted only after approval by DSL. If the wetland is demonstrated to be a primary protected water feature, the applicant ~~shall~~ must provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the wetland on the subject property.

The Planning ~~Director~~ Manager ~~shall~~ will confer with DSL and Metro to confirm delineation and hydrology reports, as may be needed, prior to issuing a notice of decision on a requested map correction. In cases where the City initiates the boundary verification for purposes of improving the accuracy of the NR map, a formal delineation approval by DSL is not required, though a report following the delineation process established by DSL must be provided.

(2) Approval Criteria

The City ~~shall~~ will update the NR ~~Administrative~~ Map if the wetland or hydrology report submitted demonstrates any of the following:

(a) That there was an error in the original mapping.

(b) That the boundaries of the WQR have changed since the most recent update to the NR ~~Administrative~~ Map.

(c) That a primary protected water feature no longer exists because the area has been legally filled, culverted, or developed prior to January 16, 2003, the effective date of Ordinance #1912.

b. Detailed Verification of HCAs

An applicant who believes that an HCA shown on the NR ~~Administrative~~ Map should be corrected for a reason other than those described in Subsections 19.402.15.A.1.a or b may

propose a detailed verification.

(1) Submittal Requirements

The applicant ~~shall~~ must submit a report prepared and signed by either a knowledgeable and qualified natural resource professional; such as a wildlife biologist, botanist, or hydrologist; or a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, stormwater facilities, or other similar facilities. The report ~~shall~~ must include:

(a) A description of the qualifications and experience of all persons that contributed to the report and, for each person that contributed, a description of the elements of the analysis to which the person contributed.

(b) The information described in Subsection 19.402.15.A.1.a.

(c) The information described in Subsection 19.402.15.A.1.b, if the applicant believes such information is relevant to the verification of habitat location on the subject lot or parcel.

(d) Additional aerial photographs, if the applicant believes they provide better information regarding the property, including documentation of the date and process used to take the photos and an expert's interpretation of the additional information they provide.

(e) A map showing the topography of the property shown by 2-ft vertical contours in areas of slopes less than 15%, and at 5-ft vertical contours of slopes 15% or greater.

(f) Any additional information necessary to address each of the detailed verification criteria provided in Subsection 19.402.15.A.2.b.(2); a description of where any HCAs are located on the property, based on the application of the detailed verification criteria; and factual documentation to support the analysis.

(2) Approval Criteria

A boundary verification request submitted under Subsection 19.402.15.A.2.b ~~shall~~ will be evaluated according to the following three-step process:

(a) ~~Verify Boundaries of Inventoried~~ Identify Riparian Habitat

~~Locating habitat and determining the riparian habitat class of the designated natural resource is a four-step process:~~

~~(i)~~ Locate the water feature that is the basis for identifying riparian habitat.

- (i) Locate the top of bank of all streams, rivers, and open water within 200 ft of the property.
- (ii) Locate all flood areas within 100 ft of the property.
- (iii) Locate all wetlands within 150 ft of the property, based on the NR ~~Administrative~~ Map. Identified wetlands ~~shall~~ must be further defined or informally delineated consistent with methods currently accepted by DSL and the Corps.

(b) Identify Vegetative Cover Status

~~(ii)~~ Identify the vegetative cover status of all undeveloped areas on the property that are within 200 ft of the top of bank of streams, rivers, and open water; are wetlands or are within 150 ft of wetlands; and are flood areas (i.e., 100-year

floodplain) and within 100 ft of flood areas. For purposes of this subsection, "undeveloped areas" means those portions of the property that have not been changed from a more natural, pre-development state by buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas and walkways), hardscape landscaping, above-ground utilities, and/or similar improvements.

Determine whether these undeveloped areas fall into any of the following three categories:

(i) Low structure vegetation or open soils = Undeveloped areas that are part of a contiguous area 1 acre or larger of grass, meadow, croplands, or areas of open soils located within 300 ft of a surface stream. Low structure vegetation areas may include areas of shrub vegetation less than 1 acre in size; if they are contiguous with areas of grass, meadow, croplands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 ft of a surface stream; and if those contiguous areas together form an area of 1 acre in size or larger.

(ii) Woody vegetation = Undeveloped areas that are part of a contiguous area 1 acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 ft of a surface stream.

(iii) Forest canopy = Undeveloped areas that are part of a contiguous grove of trees of 1 acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 ft of the relevant water feature.

- ~~Vegetative cover status shall be as identified on the latest Metro Vegetative Cover Map (available from the City and/or the Metro Data Resource Center).~~
- ~~The vegetative cover status of a property may be adjusted only if: (1) the property was legally developed prior to September 15, 2011, the effective date of Ordinance #2036 (see Subsection 19.402.15.A.1.b); or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property, using the aerial photographs on which the latest Metro Vegetative Cover Map is based and the definitions of the different vegetative cover types identified in Table 19.402.15.A.2.b(2)(a)(iv).~~

~~(iii) Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 ft of the property is greater than or less than 25%, using the methodology outlined in Table 19.402.15.~~

~~(iv) Identify the riparian habitat classes applicable to all areas on the property using Table 19.402.15.A.2.b(2)(a)(iv) and the data identified in Subsections 19.402.15.A.2.b(2)(a)(i) through (iii).~~

(c) Confirm HCA Boundaries

Using Table 19.402.15.A.2.b.(2).(c), determine whether any portion of the identified undeveloped riparian areas on the subject property is classifiable as HCA.

Table 19.402.15.A.2.b.(2).(c) Identifying Habitat Conservation Areas (HCAs)			
Distance from Protected Water Feature	**Vegetation Status of Undeveloped Riparian Area**		
	Low Structure Vegetation or Open Soils	**Woody Vegetation** (shrub and scattered forest canopy)	**Forest Canopy** (closed to open forest canopy)
Surface Streams			
0 ft – 100 ft	HCA	HCA	HCA
101 ft – 200 ft	HCA if slope >25%[1] (otherwise not HCA)	HCA if slope >25%[1] (otherwise not HCA)	HCA[2]
Wetlands (wetland feature itself is an HCA)			
0 ft – 100 ft	HCA	HCA	HCA
101 ft – 150 ft	Not HCA	Not HCA	HCA
Flood Areas (FEMA's 1% annual chance flood hazard area or 1996 Metro flood area)			
Within 300 ft of river or surface stream	HCA	HCA	HCA
More than 300 ft from river or surface stream	HCA	HCA	HCA
0 ft – 100 ft from edge of flood area	Not HCA	HCA	HCA

[1] Measure slope adjacent to the protected water feature using the methodology outlined in Table 19.402.15.

[2] Those portions of the riparian area that are 151 to 200 ft from the protected water feature and have a slope less than 25% are not HCA.

~~Table 19.402.15.A.2.b(2)(a)(iv)~~ ~~Method for Determining Classification of Riparian Areas~~			
~~Distance from Protected Water Feature~~	~~Development/Vegetation Status~~[1]		
	~~Low Structure Vegetation or Open Soils~~[2]	~~Woody Vegetation (shrub and scattered forest canopy)~~[3]	~~Forest Canopy (closed to open forest canopy)~~[4]
~~Surface Streams~~			

~~Table 19.402.15.A.2.b(2)(a)(iv)~~ ~~Method for Determining Classification of Riparian Areas~~			
~~Distance from Protected Water Feature~~	~~Development/Vegetation Status~~[1]		
	~~Low Structure Vegetation or Open Soils~~[2]	~~Woody Vegetation (shrub and scattered forest canopy)~~[3]	~~Forest Canopy (closed to open forest canopy)~~[4]
~~0'-50'~~	~~Class I~~[5]	~~Class I~~	~~Class I~~
~~51'-100'~~	~~Class II~~[6]	~~Class I~~	~~Class I~~
~~101'-150'~~	~~Class II~~[6] ~~if slope>25%~~	~~Class II~~[6] ~~if slope>25%~~	~~Class II~~[6]
~~151'-200'~~	~~Class II~~[6] ~~if slope>25%~~	~~Class II~~[6] ~~if slope>25%~~	~~Class II~~[6] ~~if slope>25%~~
~~Wetlands (wetland feature itself is a Class I riparian area)~~			
~~0'-100'~~	~~Class II~~[6]	~~Class I~~	~~Class I~~
~~101'-150'~~	-	-	~~Class II~~[5]
~~Flood Areas~~			
~~Within 300' of river or surface stream~~	~~Class I~~	~~Class I~~	~~Class I~~
~~More than 300' from river or surface stream~~	~~Class II~~[6]	~~Class II~~[6]	~~Class I~~
~~0'-100' from edge of flood area~~	-	~~Class II~~[6, 7]	~~Class II~~[6]

[1] ~~The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged.~~

[2] ~~"Low structure vegetation or open soils" means areas that are part of a contiguous area 1 acre or larger of grass, meadow, croplands, or areas of open soils located within 300 ft of a surface stream. Low structure vegetation areas may include areas of shrub vegetation less than 1 acre in size; if they are contiguous with areas of grass, meadow, croplands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 ft of a surface stream; and if those contiguous areas together form an area of 1 acre in size or larger.~~

[3] ~~"Woody vegetation" means areas that are part of a contiguous area 1 acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 ft of a surface stream.~~

[4] ~~"Forest canopy" means areas that are part of a contiguous grove of trees of 1 acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 ft of the relevant water feature.~~

~~[5] Except that areas within 50 ft of surface streams shall be Class II riparian areas if their vegetation status is "low structure vegetation or open soils," and they are high gradient streams. High gradient streams are identified on the Metro Vegetative Cover Map. If a property owner believes the gradient of a stream was incorrectly identified, then the property owner may demonstrate the correct classification by identifying the channel type using the methodology described in the *Oregon Watershed Assessment Manual*, published by OWEB, and appended to Metro's *Riparian Corridor and Wildlife Habitat Inventories Report*, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C.~~

~~[6] Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases; subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's *Technical Report for Fish and Wildlife*. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.~~

~~[7] Only if within 300 ft of a river or surface stream.~~

~~(b) Determine the Property's Urban Development Value~~

~~The urban development value of property designated as regionally significant habitat is depicted on the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center).~~

~~(i) A property's urban development value designation shall be adjusted upward if the Metro 2040 Design Type designation for the property lot or parcel has changed from one with a lower urban development value to one with a higher urban development value. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center).~~

~~(ii) Properties in areas designated on the 2040 Applied Concept Map as Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas are considered to be of high urban development value; properties in areas designated as Main Streets, Station Communities, Other Industrial Areas, and Employment Centers are of medium urban development value; and properties in areas designated as Inner and Outer Neighborhoods and Corridors are of low urban development value.~~

~~(iii) As designated in Title 13 of the UGMFP, properties owned by a regionally significant educational or medical facility are designated as high urban development value.~~

~~(c) Cross-Reference Habitat Class with Urban Development Value~~

~~City verification of the locations of HCAs shall be consistent with Table 19.402.15.A.2.b(2)(c).~~

~~**Table 19.402.15.A.2.b(2)(c)**~~
~~**Method for Identifying Habitat Conservation Areas (HCAs)**~~

~~**Fish & Wildlife Habitat Classification**~~	~~**High Urban Development Value[1]**~~	~~**Medium Urban Development Value[2]**~~	~~**Low Urban Development Value[3]**~~	~~**Other Areas: Parks and Open Spaces (no design types outside UGB)**~~
~~Class I Riparian~~	~~HCA~~	~~HCA~~	~~HCA~~	~~HCA~~

~~Table 19.402.15.A.2.b(2)(c)~~ ~~Method for Identifying Habitat Conservation Areas (HCAs)~~				
~~Fish & Wildlife Habitat Classification~~	~~High Urban Development Value[1]~~	~~Medium Urban Development Value[2]~~	~~Low Urban Development Value[3]~~	~~Other Areas: Parks and Open Spaces (no design types outside UGB)~~
~~Class II Riparian~~	~~HCA~~	~~HCA~~	~~HCA~~	~~HCA~~
~~Class A Upland Wildlife~~	~~No HCA~~	~~No HCA~~	~~No HCA~~	~~No HCA/HCA[4]~~
~~Class B Upland Wildlife~~	~~No HCA~~	~~No HCA~~	~~No HCA~~	~~No HCA/HCA[4]~~

~~NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a city or county is determining whether to make an HCA adjustment.~~

~~[1] Primary 2040 design type: Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas.~~

~~[2] Secondary 2040 design type: Main Streets, Station Communities, Other Industrial areas, and Employment Centers.~~

~~[3] Tertiary 2040 design type: Inner and Outer Neighborhoods, Corridors.~~

~~[4] All Class A and B upland wildlife habitat in publicly-owned parks and open spaces shall be considered HCA, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses.~~

(3) Notification to Metro and DLCD

When an application for boundary verification proposes corrections to mapped HCAs that would result in a change in HCA designation of 1 acre or more, the City ~~shall~~ will notify Metro and the Oregon Department of Land Conservation and Development within 7 days after the application has been deemed complete, in accordance with the Type II referral procedure outlined in Subsection 19.1005.3.A.

3. Type III or V Boundary Verification

Corrections to mapped WQRs or HCAs that are not subject to processing according to the provisions outlined in either of Subsection 19.402.15.A.1 or A.2, such as in cases where the City initiates the change without property owner authorization and/or where the changes involve more properties than for which it is practicable to obtain all property owners' authorization, ~~shall~~ will be processed in accordance with the procedures for zoning map amendments as provided in Subsection 19.902.6. Such corrections ~~shall~~ will be processed with either Type III or Type V review, accordingly, but do not constitute amendments to the ~~z~~Zoning ~~m~~Map itself, only to the NR ~~Administrative~~ Map.

B. Map Administration

1. Updates to the NR ~~Administrative~~ Map

When a boundary verification, conducted in accordance with the standards of Subsection 19.402.15.A, demonstrates an error in the location of a WQR or HCA shown on the NR ~~Administrative~~ Map, the City ~~shall~~ will update the NR ~~Administrative~~ Map to incorporate the corrected information as soon as practicable. Changes to the NR ~~Administrative~~ Map are not considered amendments to the City's Comprehensive Plan, to Comprehensive Plan Map ~~5~~6

(Natural Resources Inventory), or to the Zoning Map.

2. Mapping Implications of Allowed Disturbances

   a. WQRs

      Permanent disturbances within a WQR, whether they occurred prior to the adoption of the Zoning Ordinance or are allowed according to the standards of Section 19.402, do not affect the way related WQRs are shown on the NR ~~Administrative~~ Map.

   b. HCAs

      When disturbances are allowed within HCAs, in accordance with the applicable standards of Section 19.402, the City may update the NR ~~Administrative~~ Map to show that the permanently disturbed area is no longer considered an HCA.

3. Designation of Annexed Areas

   When land annexed to the City includes WQRs and/or HCAs, as designated by Clackamas County, those same designations ~~shall~~ will be shown on the City's NR ~~Administrative~~ Map at the time of annexation. Verification of the boundaries of such WQRs and/or HCAs ~~shall~~ will be processed in accordance with the applicable provisions established in Subsection 19.402.15.A; not necessarily at the time of annexation, but at such time as a new activity is proposed on the annexed property.

TITLE 16 ENVIRONMENT

CHAPTER 16.32 TREE CODE

ARTICLE II Street Trees and Public Trees

Section 16.32.026 Major Pruning or Removal of Street Trees and Public Trees

A. Applicability

1. No person will perform major tree pruning or remove any street tree or public tree without first obtaining a permit issued by the City.
   a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
   b. For street trees, the applicant must be the City, the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
   c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.
2. For public trees, this chapter will be applied in conjunction with any applicable standards in Title 19 Zoning, including those of Section 19.402 Natural Resources.

ARTICLE III Private Trees in Residential Zones

Section 16.32.042 Tree Preservation and Planting with Development in Residential Zones

B. Tree Preservation Standards

1. Healthy trees at least 6-in DBH are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts.
2. Preservation of at least 30% on-site healthy private tree canopy coverage is required unless mitigation is provided according to Subsection 16.32.042.E. See Figures 16.32.042.B.2-a and B.2-b for examples of when mitigation is or is not required. (See Subsection 16.32.042.D.3 for information on calculating tree canopy coverage.)
3. For development sites with 30% or less on-site healthy private tree canopy coverage, the removal of healthy private tree canopy is not allowed unless mitigation is provided according to Subsection 16.32.042.E.
4. Trees of any size that are listed on the Milwaukie Rare or Threatened Tree List must be prioritized for preservation; if removed, healthy trees from this list will incur an additional fee as listed on the Consolidated Fee Schedule.
5. Unhealthy trees and tree~~s~~ species on the Oregon State Noxious Weed List or Milwaukie Invasive Tree List, as well as trees within designated natural resource areas (as per Section 19.402) that are listed as nuisance species on the Milwaukie Plant List, are not required to be preserved in conjunction with applicable development as established in Subsection 16.32.042.A.

6. The applicant must provide a performance bond for existing trees that are preserved for purposes of addressing the 30% canopy coverage standard, to ensure their survival for such period of time as identified in the Consolidated Fee Schedule. On-site trees may be exempt from the performance bond requirements if the Urban Forester or an ISA Certified Arborist determine that construction activities do not present a significant impact to tree health. Existing trees used for canopy credit do not qualify for removal based on the criteria outlined in Subsection 16.32.044 D.2.(11).

D. Tree Canopy Calculations and Credits

The following situations are eligible for credit towards tree canopy requirements when trees are planted or preserved in accordance with applicable City standards:

1. On-Site Trees
   a. 100% of the existing crown area or mature crown area of on-site healthy private trees that are preserved, whichever is greater.
      (1) In cases where a portion of the crown area of an on-site healthy private tree extends off site, the entire crown area is eligible for credit towards the tree canopy requirements.
      (2) In cases where a portion of the crown area of an off-site private tree extends on site, the crown area is not eligible for credit towards the tree canopy requirements.
      (3) Healthy on-site trees with DBH of 12 inches or greater may receive additional canopy credits for existing or future mature crown area (whichever is greater) to be factored into preservation calculations as defined in the Consolidated Fee Schedule.
   b. 75% of the future mature crown area of planted on-site private trees.

Section 16.32.044 Non-Development Private Tree Removal in Residential Zones

A. Applicability

A permit is required prior to the removal of the following private trees in residential zones:

1. Trees that are at least six-inch DBH.
2. Trees that are less than six-inch DBH as specified on the Milwaukie Rare or Threatened Tree List.
3. Trees that were planted to meet any requirements in Sections 16.32.042 or 16.32.044.

B. Permit Exemptions

Tree removal permits are not required in residential zones when:

1. Tree removal is approved with development as provided in Subsection 16.32.042.A.
2. The removal is of trees that are grown for commercial, agricultural, or horticultural purposes including fruit trees, nut trees, or holiday trees.
3. The removal is of a tree(s) within a designated natural resource area as regulated by Section 19.402. Such removal will be governed by the applicable standards of Section 19.402 unless otherwise noted. If the removal does not meet the approval criteria for a Type A permit as outlined in Subsection 16.32.044.D.2, a Type B permit will be required (including applicable mitigation fees as listed in the Consolidated Fee Schedule).

D. Type A Tree Removal Permit

2. Approval Criteria

A Type A permit will be issued only if the following criteria are met, as determined by the Urban Forester:

a. The proposed tree removal will be performed according to current ISA Best Management Practices.

b. The tree proposed for removal meets one or more of the following criteria:

(1) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(2) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(3) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(4) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist that is Tree Risk Assessment Qualified (TRAQ) in accordance with current ISA Tree Risk Assessment Best Management Practices.

(5) The tree is on the Oregon State Noxious Weed List or the Milwaukie Invasive Tree List; or, if located within a designated natural resources area as regulated by Section 19.402, the tree is listed as a nuisance species on the Milwaukie Plant List.

(6) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(7) The tree location conflicts with areas of public street widening, construction, or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(8) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation, or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(9) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that would result in tree retention.

(10) An ISA Certified Arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80% canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(11) Healthy trees. One healthy tree may be removed per tax lot per twelve-month period if the tree is less than 12 inches in diameter at breast height and is not required to be preserved by a condition of a land use review, a provision of Chapter 16.32 or Title 19, or as part of a required stormwater facility.

TITLE 19 ZONING

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 Definitions

"Major pruning" means the trimming or removal of 20% or more of the live crown, or removal of or injury to roots within a radial distance from the tree of six times the tree's diameter at breast height (DBH) or over 25% of the root protection zone (see Figure 16.32.042.G.1.b) during any 12-month period.

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.402 Natural Resources NR

19.402.1 Intent

Section 19.402 is to be interpreted consistently with the following:

A. Section 19.402 provides protection for water quality resources under Statewide Land Use Planning Goal 6 and Sections 1-4 of Title 3 of the Metro Urban Growth Management Functional Plan (UGMFP). Section 19.402 also provides protection for designated natural resources that have been identified for the purposes of implementing Statewide Planning Goal 5 relating to significant natural riparian, wildlife, and wetland resources and Title 13 of the UGMFP.

B. Many of Milwaukie's riparian, wildlife, and wetland resources have been adversely affected by development over time. These regulations seek to minimize additional adverse impacts and to restore and improve resources, where possible, while balancing property rights and development needs of the city.

C. It is also the intent of Section 19.402 to:

1. Designate water quality resources (WQRs) to protect the functions and values of riparian and wetland resources at the time of development.
2. Protect and improve the functions and values that contribute to water quality and to fish and wildlife habitat in urban streamside areas. These functions and values include, but are not limited to:
   a. Vegetated corridors to separate protected water features from development.
   b. Microclimate and shade.
   c. Streamflow moderation and water storage.
   d. Water filtration, infiltration, and natural purification.
   e. Bank stabilization and sediment and pollution control.
   f. Large wood recruitment and retention and natural channel dynamics.
   g. Organic material resources.
3. Designate habitat conservation areas (HCAs) to implement the performance standards of Title 13 of the UGMFP for riparian areas and fish and wildlife habitat, and to protect significant local Goal 5 resources such as wetlands.
4. Provide nondiscretionary (clear and objective) standards, as well as a discretionary review process, applicable to development in HCAs, in accordance with Goal 5.

5. Allow and encourage habitat-friendly development while minimizing the impact on water quality and fish and wildlife habitat functions.
6. Permit residential cluster development to encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography.
7. Provide mitigation standards for the replacement of ecological functions and values lost through development in WQRs and HCAs. This includes restoration of designated natural resources that are temporarily disturbed during development, as well as mitigation for permanent disturbance of those areas as a result of development.
8. Preserve existing native vegetation against removal and replacement with lawns, gardens, or other nonnative plantings.

D. Section 19.402 allows development in situations where adverse impacts from the development can be avoided or mitigated and where the strict application of these rules would deny reasonable economic use of property.

E. It is not the intent of Section 19.402 to:

1. Impose any obligation on property owners to restore existing developed sites to predevelopment or natural conditions when no new activity is proposed.
2. Impose any unreasonable hardship against the continued maintenance of existing legal site conditions.
3. Apply to activities that do not affect WQRs or HCAs.
4. Prohibit normal lawn and yard landscape planting and maintenance that does not involve removal and replacement of existing native vegetation. Normal lawn and yard planting and maintenance does not include the planting of invasive nonnative or noxious vegetation, including, but not limited to, plants listed as nuisance species on the Milwaukie Plant List established in Subsection 19.402.2.G.

19.402.2 Coordination with Other Regulations

A. Implementation of Section 19.402 is in addition to, and will be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 does not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision will be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming solely because of Section 19.402, is not subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons will be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, state, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, state, and federal regulations, the requirements of Section 19.402 will govern.

F. Development in or near wetlands and streams may require permits from the Oregon Department of State Lands (DSL) and the U.S. Army Corps of Engineers (Corps). If a federal permit is required, a water quality certification from the Oregon Department of Environmental Quality (DEQ) may also be

required. The Planning Manager will notify DSL and the Corps when an application for development within streams and wetlands is submitted. Because these agencies may have more restrictive regulations than the City, applicants are encouraged to contact them before preparing development plans.

G. A document or other list used to identify native, nuisance, and prohibited plants will be maintained by the Planning Manager and will be referred to as the Milwaukie Plant List.

H. A document or other list used to identify chemicals that have been demonstrated to be detrimental to water quality and habitat health will be maintained by the Planning Manager and will be referred to as the Milwaukie Prohibited Chemicals List.

19.402.3 Applicability

A. The regulations in Section 19.402 apply to all properties that contain or are within 100 ft of a WQR and/or HCA (including any locally significant Goal 5 wetlands or habitat areas identified by the City of Milwaukie) as shown on the Milwaukie Natural Resources Administrative Map (hereafter "NR Map").

B. For properties that do not contain, but are within 100 ft of, a WQR and/or HCA, as shown on the NR Map, and where an activity not listed as exempt in Subsection 19.402.4.A will disturb more than 150 sq ft, a construction management plan is required in accordance with Subsection 19.402.9 (see also Table 19.402.3).

C. The NR Map, which shows WQRs and HCAs, is adopted by reference. The NR Map will be used to determine the applicability of Section 19.402 and will be administered in accordance with Subsection 19.402.15.

D. Designated natural resources are shown on the NR Map as follows:

1. Water quality resources (WQRs) include protected water features and their associated vegetated corridors, as specified in Table 19.402.15. The vegetated corridor is a buffer around each protected water feature, established to prevent damage to the water feature. The width of the vegetated corridor varies depending on the type of protected water feature, upstream drainage area served, and slope adjacent to the protected water feature. The NR Map is a general indicator of the location of vegetated Corridors; the specific location of vegetated corridors must be determined in the field in accordance with Table 19.402.15.

2. Habitat conservation areas (HCAs) include significant Goal 5 wetlands, riparian areas, and fish and wildlife habitat. HCAs are designated based on a combination of inventory of vegetative cover and analysis of habitat value and urban development value. HCA locations on the NR Map are assumed to be correct unless demonstrated otherwise; verifications and corrections will be processed in accordance with the procedures established in Subsection 19.402.15.

E. To determine whether a proposed activity on a given property will trigger any requirements of Section 19.402, the City will use the latest available aerial photographs; a copy of the applicable section of the NR Map; and, in the case of WQRs, the parameters established in Table 19.402.15. If a property owner or applicant believes that the NR Map is inaccurate, they may propose corrections according to the standards established in Subsection 19.402.15.

F. In the context of designated natural resources, "disturbance" is a condition or result of an act that "disturbs" as defined in Section 19.201. Disturbance can be either temporary or permanent as noted below.

1. Temporary disturbances are those that occur during an allowed or approved development or activity but will not persist beyond completion of the project. Temporary disturbances include, but are not limited to, accessways for construction equipment; material staging and stockpile

areas; and excavation areas for building foundations, utilities, stormwater facilities, etc.

2. Permanent disturbances are those that remain in place after an allowed or approved development or activity is completed. Permanent disturbances include, but are not limited to, buildings, driveways, walkways, and other permanent structures.

G. If more than 150 sq ft of area will be disturbed in conjunction with a proposed activity listed as exempt in Subsection 19.402.4.B, a construction management plan must be submitted according to the provisions of Subsection 19.402.9. This requirement applies even when the proposed activity will not occur within a designated natural resource but is within at least 100 ft of the resource, in accordance with Table 19.402.3.

H. Proposed activities that are listed as exempt or occur more than 100 ft from a WQR or HCA, as shown on the NR Map or determined in accordance with Table 19.402.15, do not require review under the provisions of Section 19.402.

I. Those portions of streams, creeks, and other protected water features that appear on the NR Map but are enclosed in pipes, culverts, or similar structures are not subject to the provisions of Section 19.402, except where a proposed activity will expose or directly disturb the protected water feature, such as with excavation. For WQRs, the underground portion of the protected water feature is not considered a protected water feature for purposes of determining the WQR location as outlined in MMC Table 19.402.15. For HCAs, the boundary verification options provided in MMC 19.402.15 may be used as necessary to determine whether the aboveground characteristics of the underground portion of the protected water feature affect the representation of HCA on the NR Map.

J. The requirements of Section 19.402 apply, as shown in Table 19.402.3, both to properties that include a WQR and/or HCA, and to properties that do not include a WQR or HCA but where an activity is proposed within 100 ft of a WQR or HCA.

Table 19.402.3
Applicability of Requirements of Section 19.402

Situations/activities that may trigger Section 19.402	Prepare Construction Management Plan per Subsection 19.402.9?	Comply with Remainder of Section 19.402?
Activities listed as exempt per: • **Subsection 19.402.4.A** (outright exemptions for both WQRs and HCAs)	No	No
• **Subsection 19.402.4.B** (limited exemptions for HCAs only)	No (unless > 150 sq ft of disturbance is proposed)	No
Nonexempt activities: • Outside of WQR and HCA	No (unless activity is within 100' of WQR or HCA and > 150 sq ft of disturbance is proposed)	No
• Within WQR or HCA	Yes	Yes

K. Activities that are not exempt per Subsection 19.402.4, or prohibited per Subsection 19.402.5, are subject to the Type I, II, or III review process as outlined in Table 19.402.3.K.

Table 19.402.3.K
Types of Process Review for Various Activities

Activity (and applicable code sections)	**Type of Review Process**		
	Type I (19.1004)	**Type II (19.1005)**	**Type III (19.1006)**
Agency-approved natural resource management plans **(Subsections 19.402.10.A and C)**	✓		
Independent natural resource management plans **(Subsections 19.402.10.B and C)**		✓	
Limited tree removal **(Subsection 19.402.6.B)**	✓		
Tree removal that is not exempt or allowable with Type I review **(Subsection 19.402.8.A.8)**			✓
Activities within HCA that meet nondiscretionary standards **(Subsection 19.402.11.D)**	✓		
Maintenance of existing utility facilities **(Subsection 19.402.6.E)**	✓		
Utility connections **(Subsection 19.402.6.F)**	✓		
Nonemergency abatement of nuisances or violations **(Subsection 19.402.6.G)**	✓		
Limited WQR disturbance for new dwelling units **(Subsection 19.402.6.B)**	✓		
Special use activities **(Subsections 19.402.7.A and 19.402.11.E)**		✓	
Other limited disturbance to WQRs **(Subsection 19.402.7.D)**		✓	
Development activities that are not exempt or allowable with Type I or II review **(Subsections 19.402.8 and 19.402.12)**			✓
Property line adjustments that balance the HCA distribution **(Subsection 19.402.13.E.1 or 2)**	✓		
Property line adjustments that otherwise limit HCA disparity **(Subsection 19.402.13.E.3)**		✓	
Low-impact partitions (put designated natural resources in separate tract) **(Subsection 19.402.13.F)**	✓		
Other partitions or subdivisions **(Subsections 19.402.13.G or H)**		✓	
Boundary verifications with minor corrections	✓		

Table 19.402.3.K Types of Process Review for Various Activities			
Activity (and applicable code sections)	**Type of Review Process**		
	Type I (19.1004)	**Type II (19.1005)**	**Type III (19.1006)**
(Subsection 19.402.15.A.1)			
Boundary verifications with substantial corrections **(Subsection 19.402.15.A.2)**		✓	

L. Where WQRs and HCAs overlap, the WQR overlap area is not included in any calculations of the HCA area for purposes of determining whether HCA-only exemptions are allowed or for calculating allowable HCA disturbances.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.
2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a state or federal agency.
3. Emergency procedures or activities undertaken (excluding non-exempt tree removal as allowed in Subsection 19.402.4.A.6) that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action must repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.
4. The planting or propagation of plants categorized as native species on the Milwaukie Plant List.
5. Removal of plants categorized as nuisance species on the Milwaukie Plant List. After removal, all open soil areas must be replanted and/or protected from erosion.
6. Removal of trees under any of the following circumstances:
   a. The tree is a "downed tree" as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.
   b. The tree is less than 6-in diameter at breast height (DBH), is not a species on the Milwaukie Rare or Threatened Tree List, and was not planted to meet any requirements in Sections

16.32.042 or 16.32.044.

c. Removal of the tree is in accordance with an approved natural resource management plan per Subsection 19.402.10 and any applicable requirements in Chapter 16.32.

d. Major pruning of trees within 10 ft of existing structures in accordance with the Best Management Practices of the International Society of Arboriculture (ISA).

e. Removal of a public tree (as defined in Subsection 16.32.010; i.e., a tree on land owned or maintained by the City) that meets at least one of the criteria for exempt removal as outlined in this subsection or one of the criteria for limited tree removal as provided in Subsection 19.402.6.A.

7. Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the Milwaukie Plant List, or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees larger than 6-in diameter at breast height (DBH) or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland. This exemption extends to the installation of benches, chairs, and similar unsheltered sitting apparatus within 30 ft or less of the top of bank or within 50 ft or less of the edge of a wetland, provided that the installation involves no more than 4 sq ft of disturbance per apparatus and that no more than one bench or sitting apparatus is installed per 100 lineal feet along the top of bank or edge of wetland. All temporary disturbances must be restored.

9. Routine repair and maintenance, alteration, demolition, and/or change of use of existing legal structures, provided that the following criteria are met:

   a. There is no change in the location, or increase in the footprint, of any building, impervious surface, or outdoor storage area within a WQR or HCA.

   b. No other site changes are proposed that could result in increased direct stormwater discharges to a WQR. If the project will result in increased direct stormwater discharges, the proposal is subject to the Type II review process and the standards for discretionary review established in Subsection 19.402.12.

10. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, trails, walkways, and parking improvements (including asphalt overlays); provided that there is no new disturbance of the WQR or HCA, no increase in impervious area, no reduction in landscaped areas or tree cover, and no other change that could result in increased direct stormwater discharges to the WQR.

11. Routine repair and maintenance of public and private stormwater facilities in accordance with a stormwater management plan approved by the City.

12. Existing agricultural practices or uses, excluding buildings and structures, provided that such activities or uses do not result in increased direct stormwater discharges to WQRs.

13. Removal of debris, as defined in Section 19.201.

14. Change of ownership.

15. Lot consolidations, as defined in Section 17.08.010.

16. Activities and improvements in existing public rights-of-way.
17. Establishment and maintenance of trails in accordance with the following standards:
    a. Trails must be confined to a single ownership or within a public trail easement.
    b. Trails must be no wider than 30 in. Where trails include stairs, stair width must not exceed 50 in and trail grade must not exceed 20%, except for the portion of the trail containing stairs.
    c. Trails must be unpaved and constructed with nonhazardous, pervious materials.
    d. Trails must be located at least 15 ft from the top of bank of all water bodies except where necessary to access a bench or similar sitting apparatus exempted in Subsection 19.402.4.A.8.
    e. Plants adjacent to trails may be trimmed, but trimming clearances must not exceed a height of 8 ft and a width of 6 ft.
    f. Native trees of larger than 6-in DBH, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, must not be removed.
18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

B. Limited Exemptions Within HCAs

The following activities within HCAs are exempt from the provisions of Section 19.402, except that a construction management plan is required, according to the provisions of Subsection 19.402.9, where the activity disturbs a total of more than 150 sq ft:

1. The alteration and/or total replacement of existing structures, provided that both of the following standards are met:
    a. The alteration and/or replacement does not intrude more than 500 sq ft into the HCA, beyond the area defined as the building footprint as of September 15, 2011, the effective date of Ordinance #2036.
    b. The alteration and/or replacement does not result in increased direct stormwater discharges to a WQR.
2. Minor encroachments, not to exceed 500 sq ft for residential zones or 150 sq ft in nonresidential zones, for new features such as accessory buildings, patios, walkways, or retaining walls.
3. Temporary and minor clearing, excavation, or other disturbances, not to exceed 150 sq ft, for the purpose of~~:~~ site investigations or preparation of soil profiles; installation of underground utility facilities or other infrastructure; routine repair and maintenance and/or alteration of existing utility facilities, access, streets, driveways, and parking improvements; or similar activities, provided that such disturbed areas are restored to their original condition when the activity is complete.
4. Low-impact outdoor recreation facilities for public use—including, but not limited to, multiuse paths, accessways, trails, picnic areas, or interpretive and educational displays and overlooks that include benches and outdoor furniture—provided that such facilities contain no more than 500 sq ft of new impervious surface. Any trails must have a maximum width of 5 ft and must be constructed using nonhazardous, pervious materials.
5. Facilities that infiltrate stormwater on the site, including the associated piping, so long as the forest canopy and the areas within the driplines of the trees are not disturbed. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins. Native or nonnative vegetation may be planted in these facilities, provided that none of the plantings are identified as a nuisance species on the Milwaukie Plant

List.

19.402.5 Prohibited Activities

Title 19 Zoning is comprised of regulations that deal with the use of land; it does not extend into the broader realm of laws that regulate personal activities unrelated to land use and development. Given such limitations, the following activities are prohibited within WQRs and HCAs:

A. New structures, development, or landscaping activity other than those allowed by Section 19.402.

B. Uncontained areas of hazardous materials, as defined by DEQ.

C. Planting any vegetation listed as a nuisance species on the Milwaukie Plant List.

D. Outside storage of materials; unless such storage began before September 15, 2011, the effective date of Ordinance #2036; or unless such storage is approved according to the applicable provisions of Section 19.402.

E. Application of pesticides or herbicides with any of the active ingredients listed on the Milwaukie Prohibited Chemicals List.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. For trees not exempted by Subsections 19.402.4.A.6 (general exemptions) or 19.402.6.A.2 (development scenarios), the Planning Manager may approve an application for limited tree removal or major pruning within WQRs and HCAs under any of the following circumstances:

   a. The tree poses an immediate emergency, as determined by the Urban Forester, Planning Manager, or designee; or a hazardous but nonemergency situation, with an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist that is Tree Risk Assessment Qualified (TRAQ) in accordance with current ISA Tree Risk Assessment Best Management Practices.

      Immediate emergencies may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged or is damaging structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples include but are not limited to trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. Emergency situations do not offer time for the normal review process and will be evaluated retroactively once the emergency has been resolved.

      A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse.

      Approval will be limited to removal of the tree, or portion of the tree, as necessary to eliminate the emergency or hazard. Any damage or impacts to the designated natural resource must be repaired after the emergency or hazard has been resolved. Any applicable requirements of Chapter 16.32 must also be met.

   b. The tree is dead, diseased, or dying and cannot be saved, as determined and documented in a report by an ISA Certified Arborist in accordance with ISA standards. This includes

situations where a tree has sustained physical damage that will cause it to die or enter an advanced state of decline.

c. The tree is categorized as a nuisance species on the Milwaukie Plant List.

d. The tree is a downed tree, but more than 150 sq ft of earth disturbance is necessary to remove it.

e. The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

f. The tree location conflicts with areas of public street widening, construction, or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

g. Tree removal is required for the purposes of utility or infrastructure repair and there is no practicable alternative to removing the tree.

h. The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that would result in tree retention.

i. The tree is not categorized as either a nuisance or native species on the Milwaukie Plant List, is less than 12-in DBH, and is not located in a WQR categorized as Class A ("Good")~~,~~ according to Table 19.402.11.C, provided that no more than three (3) such trees will be removed during any 12-month period. In residential zones, for the proposed removal of more than one such tree (i.e., non-nuisance, non-native, not in a “Good” WQR area) during any 12-month period, the Type B tree permit process outlined in Subsection 16.32.044.E is applicable in addition to the provisions of Subsection 19.402.6.A.

j. For major pruning, as defined in Section 19.201, a certified arborist has determined, and documented in a report, that the tree will survive the proposed pruning.

2. The provisions of Subsection 19.402.6.A.1 do not apply to tree removal proposed in association with development or other activities regulated by Section 19.402, for which other approval criteria and mitigation standards may apply.

3. The Planning Manager will require the application to comply with all of the following standards:

a. A construction management plan must be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance must be replanted and/or protected from erosion.

b. All pruning and/or tree removal must be done in accordance with the standards of the International Society of Arboriculture (ISA) and must comply with the applicable requirements in Chapter 16.32.

c. Any tree that is removed in accordance with Subsection 19.402.6.A must be replaced with a new tree, of at least 1.5-in caliper or at least 5-ft overall height after planting. An exception to this requirement may be granted if the applicant demonstrates that a replacement tree has already been planted in anticipation of tree removal or if existing dense canopy coverage otherwise precludes tree replacement. Any other proposed exception to this replanting requirement is subject to the mitigation fees established in conjunction with Section 16.32.044.

d. The replacement tree(s) must be located in the general vicinity of the removed tree(s), somewhere within the designated natural resource (WQR or HCA). The replacement tree(s) does not have to be a native species; but, in accordance with Subsection 19.402.5.C, the

replacement tree(s) must not be categorized as a nuisance species on the Milwaukie Plant List. The property owner must ensure that the replacement tree(s) survives at least two (2) years beyond the date of its planting.

B. Limited WQR Disturbance for New Dwelling Units

1. Within WQRs, nonexempt residential development that is not listed in Subsections 19.402.7 or 19.402.8 and that is in compliance with the following nondiscretionary standards is allowable subject to Type I review:

   a. The disturbance (temporary or permanent) is directly related to the construction of a new dwelling unit (primary or accessory); and

   b. The area of the site that is not categorized as WQR and that is outside the minimum required yard setbacks for the underlying zone is 1,500 sq ft or less. In such cases, the disturbance area within the WQR is limited by the following formula: subtract the area of the site that is not categorized as WQR from the area of the site that is categorized as WQR; if that number is positive, that amount of WQR on the site can be disturbed, up to a maximum of 800 sq ft (see Figure 19.402.6.B.1.b); and

   c. The WQR being disturbed is not categorized as Class A ("Good") according to Table 19.402.11.C; and

   d. The disturbance area is at least 30 ft from the top of bank of a stream or drainage or 30 ft from the edge of a wetland; and

   e. The disturbance does not include the removal of any trees 6-in DBH or greater that are categorized as a native species on the Milwaukie Plant List; and

   f. The disturbance will not result in any increased direct stormwater discharges to the WQR.

2. Where limited WQR disturbance is allowed by this subsection, mitigation must be provided in accordance with the general standards of Subsection 19.402.11.B (including for plant species, size, spacing, survival, etc.) and as follows:

   a. For temporary disturbances, the disturbance area must be replanted at a minimum with native ground-cover species sufficient to cover all bare or exposed soil.

   b. For permanent disturbances, an area equal in size to the disturbance area must be established as a mitigation area. Within the mitigation area, all vegetation categorized as a nuisance species on the Milwaukie Plant List must be removed and native-species trees and shrubs must be planted at a ratio of 5 trees and 25 shrubs per 500 sq ft of allowed disturbance. Any remaining bare soil within the mitigation area must be replanted with native ground-cover species.

   These standards apply in addition to any other applicable provisions related to tree removal as established in Section 16.32.042.

C. Activities within HCAs in Compliance with Nondiscretionary Standards

Within HCAs but outside of WQRs, nonexempt development that is not listed in Subsections 19.402.7 or 19.402.8 and that is in compliance with the following nondiscretionary standards is subject to Type I review.

1. Single Detached and Middle Housing Residential Uses

   For single detached and middle housing residential uses, including any related public facilities as required by Chapter 19.700 Public Facility Improvements, the amount of nondiscretionary disturbance allowed within an HCA is determined by subtracting the area of the lot or parcel outside of the total resource area (WQR and HCA) from the maximum potential disturbance

area within the HCA (which is 50% of the total HCA, up to a maximum of 5,000 sq ft)—see Table 19.402.6.C.1 for examples. Such disturbance will be subject to Type I review and the mitigation requirements described in Subsection 19.402.11.D.2.

Table 19.402.6.C.1 Method for Calculating Allowable Nondiscretionary Disturbance within an HCA for Single Detached Dwellings and Middle Housing Residential Uses
X = The maximum potential disturbance area within the HCA, which is 50% of the total HCA, up to a maximum of 5,000 sq ft. **Y** = The area of the lot or parcel outside the total resource area (WQR and HCA). **Z** = The net amount of disturbance area allowed within the HCA (Z = X-Y). **If (Y) is greater than (X), disturbance ~~shall~~ is not ~~be~~ permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.**
Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR X = 1,500 sq ft (50% of HCA) Y = 5,000 sq ft outside of HCA/WQR Z = -3,500 sq ft (1,500 sq ft – 5,000 sq ft) **Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.**
Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR X = 3,000 sq ft (50% of HCA) Y = 2,000 sq ft outside of HCA/WQR Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft) **Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.**

2. All Other Uses

   A maximum net disturbance area of 10% of the HCA on the site is allowed by right, subject to Type I review and the mitigation requirements described in Subsection 19.402.11.D.2.

D. Natural Resource Management Plans

   Natural resource management plans that meet the standards outlined in Subsection 19.402.10.A are subject to Type I review. These are typically plans that have already been approved by a qualified agency.

E. Maintenance of Existing Utility Facilities

   Routine repair and maintenance of existing utility facilities, accesses, streets, driveways, and/or parking improvements that disturbs a WQR and/or HCA is subject to Type I review, provided such activities can meet the general standards for special uses established in Subsection 19.402.11.E.1. These include, but are not limited to, the requirement to provide a mitigation plan and to restore the disturbed area.

F. Utility Connections

   Unless they are exempt per Subsection 19.402.4, connections to existing or new utility lines that involve disturbance to a WQR and/or HCA are subject to Type I review against the following criteria:

1. The activities required to establish the connection shall not disturb a protected water feature. Utility connections that will disturb a protected water feature are subject to the review procedures for special uses established in Subsection 19.402.11.E.
2. The activities required to establish the connection shall not disturb an area greater than 10 ft wide.
3. The connection can meet the general standards for special uses established in Subsection 19.402.11.E.1.

G. Nuisance Abatement

Measures to remove or abate nuisances; or any other violation of state statute, administrative agency rule, or City or County ordinance; shall be subject to Type I review of a construction management plan, to be approved by the Planning Manager prior to the abatement activity. The person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the nuisance or violation (e.g., restore disturbed soils, restore hydrologic connections, replant disturbed areas with native vegetation, etc.) unless subsequent development has been approved.

H. Boundary Verification

Boundary verifications that propose minor corrections will be processed in accordance with Subsection 19.402.15.A.1 and are subject to Type I review.

I. Low-Impact Partitions

Partitions that meet the standards established in Subsection 19.402.13.F are subject to Type I review.

19.402.7 Activities Requiring Type II Review

Within either WQRs or HCAs, the following activities and items are subject to Type II review and approval by the Planning Manager per Section 19.1005, unless they are otherwise exempt or permitted as a Type I activity.

A. Special Uses

If not listed as exempt in Subsection 19.402.4, and not able to meet the nondiscretionary standards for HCAs as established in Subsection 19.402.11.D, any special use activity listed below ~~shall be~~ is subject to Type II review if the proposal complies with the applicable standards provided in Subsection 19.402.11.E:

1. Improvement or construction of public or private utility facilities.
2. New stormwater facilities.
3. Walkways and bike paths.
4. Stormwater management plans.

If the proposed special use activity is not in compliance with the applicable standards in Subsection 19.402.11.E, it is subject to Type III review and the general discretionary review criteria provided in Subsection 19.402.12.

B. Natural Resource Management Plans

Natural resource management plans that do not meet the Type I review standards provided in Subsection 19.402.10.A, but that meet the standards provided in Subsection 19.402.10.B, are subject to Type II review. These are typically plans that have been prepared independently of a qualified agency but that are in accordance with standards and guidelines related to enhancing

natural resources.

C. Partitions and Subdivisions

Partitions and subdivisions that meet the standards provided in Subsection 19.402.13.G and H, respectively, are subject to Type II review.

D. Other Uses and Activities with Minimal Impacts to WQRs

The activities listed below are subject to Type II review and the general discretionary review criteria provided in Subsection 19.402.12:

1. New agricultural practices or uses, excluding buildings and structures, that result in increased direct stormwater discharges to WQRs.
2. Landscaping and maintenance of existing landscaping that would increase impervious area within a WQR by no more than 150 sq ft and/or would result in increased direct stormwater discharges to the WQR.
3. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by no more than 150 sq ft within the WQR.
4. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that increases the existing disturbance area by no more than 150 sq ft within the WQR. Activities approved under this subsection shall be subject to the following requirements:
   a. Restore the disturbed portion of the WQR.
   b. Within the disturbed portion of the WQR, remove any vegetation categorized as a nuisance species on the Milwaukie Plant List and replace it with native vegetation from the list.

E. Boundary Verification

Boundary verifications that propose substantial corrections will be processed in accordance with Subsection 19.402.15.A.2 and are subject to Type II review.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below are subject to the general discretionary review criteria provided in Subsection 19.402.12:

1. Any activity allowed in the base zone that is not otherwise exempt or permitted as a Type I or II activity.
2. Within HCAs, development that is not in compliance with the nondiscretionary standards provided in Subsection 19.402.11.D.
3. New roads to provide access to protected water features, necessary ingress and egress across WQRs, or the widening of an existing road.
4. Improvement of existing public utility facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
5. New stormwater facilities that cannot meet the applicable standards of Subsection 19.402.11.E.
6. New public or private utility facility construction that cannot meet the applicable standards of

Subsection 19.402.11.E.

7. Walkways and bike paths that are not exempt per Subsection 19.402.4 or cannot meet the applicable standards of Subsection 19.402.11.E.
8. Tree removal in excess of that permitted under Subsection 19.402.4 or 19.402.6. Tree removal must also comply with any applicable requirements in Chapter 16.32.
9. Landscaping and maintenance of existing landscaping that would increase impervious area by more than 150 sq ft.
10. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by more than 150 sq ft within the WQR.
11. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that would disturb more than 150 sq ft within the WQR.

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but will be reviewed administratively in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.
2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.
3. Location of site access and egress that construction equipment will use.
4. Equipment and material staging and stockpile areas.
5. Erosion and sediment control measures.
6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.~~F~~G.

When required for a property that does not include a designated natural resource, the construction management plan must show the protective measures that will be established on the applicant's property.

19.402.10 Natural Resource Management Plans

Natural resource management plans or restoration plans that authorize limited disturbance within the WQR or HCA may be approved with Type I or II review, subject to the following standards:

A. Plans Eligible for Type I Review

The plan has already been approved by the U.S. Fish and Wildlife Service, Oregon Department of Fish and Wildlife (ODFW), DSL, Oregon Watershed Enhancement Board (OWEB), Metro, Clackamas County Soil and Water Conservation District, or other agency approved by the Planning Manager.

B. Plans Eligible for Type II Review

The plan has been prepared in accordance with particular standards and guidelines promulgated by a natural resource agency, such as OWEB's Oregon Aquatic Habitat Restoration and Enhancement Guide, ODFW's Western Oregon Stream Restoration Program, DSL's Hydrogeomorphic (HGM) approach of assessment for wetland and riparian functions, or other standards approved by the

Planning Manager.

C. Approval Criteria

Every plan prepared for approval under Section 19.402 must demonstrate that it encourages restoration activities that have any of the following effects:

1. Changes the trend of habitat function from one of a diminishing ability to support salmonids and other organisms to one that supports a complex, self-sustaining system.
2. Corrects or improves conditions caused by past management and/or disturbance events.
3. Maximizes beneficial habitat in the short term where watershed degradation has been extensive and natural processes will need substantial time to restore habitat.
4. Creates beneficial habitat and restores stream function and hydrology to the fullest extent practicable within developed areas where there is no reasonable expectation of returning to natural conditions.

D. Construction Management Plans

A construction management plan prepared in accordance with Subsection 19.402.9 is required with each natural resource management plan.

E. Ongoing Maintenance

Natural resource management plans must demonstrate how ongoing maintenance is part of the associated restoration or enhancement activities.

F. Expiration of Plans

The approval of a natural resource management plan is valid for five (5) years. Approved plans may be renewed through the Type I review process by demonstrating that the original approved plan still meets the criteria provided in Subsection 19.402.10.C. Plans that demonstrate an adaptive management component and/or that involve partnership with one of the agencies noted in Subsection 19.402.10.A may be approved as valid for up to 20 years upon request.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards apply:

1. Work areas must be marked to reduce potential damage to the WQR and/or HCA.
2. Trees in WQRs or HCAs must not be used as anchors for stabilizing construction equipment.
3. Native soils disturbed during development must be conserved on the property.
4. An erosion and sediment control plan is required and must be prepared in compliance with requirements set forth in the City's Public Works Standards.
5. Site preparation and construction practices must be followed that prevent drainage of hazardous materials or erosion, pollution, or sedimentation to any WQR adjacent to the project area.
6. Stormwater flows that result from proposed development within and to natural drainage courses must not exceed predevelopment flows.
7. Prior to construction, the WQR and/or HCA that is to remain undeveloped must be flagged, fenced, or otherwise marked and must remain undisturbed. Such markings must be maintained until construction is complete.

8. The construction phase of the development must be done in such a manner as to safeguard the resource portions of the site that have not been approved for development.
9. Where practicable, lights must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting must be selected so that impacts to habitat functions are minimized.
10. All work on the property must conform to a construction management plan prepared according to Subsection 19.402.9.
11. The applicable provisions of Chapter 16.32 must be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards apply:

1. Disturbance

   a. Designated natural resources that are affected by temporary disturbances must be restored, and those affected by permanent disturbances must be mitigated, in accordance with the standards provided in Subsection 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs, as applicable.

   b. Landscape plantings are not considered to be disturbances, except for those plantings that are part of a non-exempt stormwater facility; e.g., raingarden or bioswale.

2. Required Plants

   Unless specified elsewhere in Section 19.402, all trees, shrubs, and ground cover planted as mitigation must be native plants, as identified on the Milwaukie Plant List. Applicants are encouraged to choose particular native species that are appropriately suited for the specific conditions of the planting site; e.g., shade, soil type, moisture, topography, etc.

3. Plant Size

   Required mitigation trees must average at least a ½-in caliper—measured at 6 in above the ground level for field-grown trees or above the soil line for container-grown trees—unless they are oak or madrone, which may be 1-gallon size. Required mitigation shrubs must be at least 1-gallon size and 12 in high.

4. Plant Spacing

   Trees must be planted between 8 and 12 ft on center. Shrubs must be planted between 4 and 5 ft on center or clustered in single-species groups of no more than four (4) plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree is the starting point for plant spacing measurements. Note that in meeting the Tree Planting Standards in Subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the requirements in Table 16.32.042.D. The additional trees required by this subsection may be excluded from contributing to the Tree Planting Standards in Subsection 16.32.042.C.

5. Plant Diversity

   Shrubs must consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees can be of the same genus.

6. Location of Mitigation Area

   a. On-Site Mitigation

      All mitigation vegetation must be planted on the applicant's site within the designated natural

resource that is disturbed, or in an area contiguous to the resource area; however, if the vegetation is planted outside of the resource area, the applicant must preserve the contiguous planting area by executing a deed restriction such as a restrictive covenant.

b. Off-Site Mitigation

(1) For disturbances allowed within WQRs, off-site mitigation cannot be used to meet the mitigation requirements of Section 19.402.

(2) For disturbances allowed within HCAs, off-site mitigation vegetation may be planted within an area contiguous to the subject-property HCA, provided there is documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site. If the off-site mitigation is not within an HCA, the applicant must document that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant.

7. Invasive Vegetation

Invasive nonnative or noxious vegetation must be removed within the mitigation area prior to planting, including, but not limited to, species identified as nuisance plants on the Milwaukie Plant List.

8. Ground Cover

Bare or open soil areas remaining after the required tree and shrub plantings ~~shall~~ must be planted or seeded to 100% surface coverage with grasses or other ground-cover species identified as native on the Milwaukie Plant List. Revegetation must occur during the next planting season following the site disturbance.

9. Tree and Shrub Survival

A minimum of 80% of the trees and shrubs planted must remain alive on the second anniversary of the date that the mitigation planting is completed.

a. Required Practices

To enhance the survival of the mitigation plantings, the following practices are required:

(1) Mulch new plantings to a minimum of 3-in depth and 18-in diameter to retain moisture and discourage weed growth.

(2) Remove or control nuisance or noxious vegetation throughout the maintenance period.

b. Recommended Practices

To enhance the survival of tree replacement and vegetation plantings, the following practices are recommended:

(1) Plant bare root trees between December 1 and April 15; plant potted plants between October 15 and April 30.

(2) Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and the resulting damage to plants.

(3) Water new plantings at a rate of 1 in per week between June 15 and October 15 for the first two (2) years following planting.

c. Monitoring and Reporting

Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die must be replaced in kind as needed to ensure the minimum 80% survival rate. The Planning Manager may require a maintenance bond to cover the continued health and

survival of all plantings. A maintenance bond is not required for land use applications related to owner-occupied single-family residential projects. An annual report on the survival rate of all plantings must be submitted for two (2) years.

10. Light Impacts

    Where practicable, lights must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting must be selected so that impacts to habitat functions are minimized.

C. Mitigation Requirements for Disturbance within WQRs

1. The requirements for mitigation vary depending on the existing condition of the WQR on the project site at the time of application. The existing condition of the WQR must be assessed in accordance with the categories established in Table 19.402.11.C.
2. When disturbance within a WQR is approved according to the standards of Section 19.402, the disturbance must be mitigated according to the requirements outlined in Table 19.402.11.C and the standards established in Subsection 19.402.11.B.

Table 19.402.11.C WQR Mitigation	
Existing Condition of WQR **(What conditions for water quality and wildlife habitat are provided by the extent and character of existing vegetation?)**	**Mitigation Requirements**
Class A ("Good")	
Combination of trees, shrubs, and ground cover are 80% present, with more than 50% tree canopy coverage in vegetated corridor.	• Submit a plan for mitigating water quality impacts related to the development, including~~:~~ sediments, temperature, nutrients, or any other condition that may have caused the protected water feature to be listed on DEQ's 303(d) list. • Restore and replant disturbed areas with native species from the Milwaukie Plant List, using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site. • Inventory and remove debris, noxious materials, and nuisance species vegetation. • Plant and/or seed all bare areas to provide 100% surface coverage.
Class B ("Marginal")	
Combination of trees, shrubs, and ground cover are 80% present, with at least 25-50% canopy coverage in vegetated corridor.	• Restore and replant disturbed areas with native species from the Milwaukie Plant List, using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site. • Inventory and remove debris, noxious materials, and nuisance species vegetation. • Plant and/or seed all bare areas to provide 100% surface coverage.
Class C ("Poor")	
Combination of trees, shrubs, and ground cover are less than 80% present; and/or less than 25% canopy coverage in vegetated corridor.	• Restore and mitigate disturbed areas with native species from the Milwaukie Plant List, using a City-approved plan developed to represent the vegetative composition that would naturally occur on the site. • Inventory and remove debris, noxious materials, and nuisance species vegetation. • Plant and/or seed all bare areas to provide 100% surface coverage.

D. HCA Disturbance

1. General Provisions for Disturbance in HCAs

a. Temporary and Permanent Disturbances

All disturbances within an HCA that occur during construction or other development activities, whether temporary or permanent disturbances, count equally for the purposes of calculating and tracking the maximum disturbance area allowed for a particular site. Disturbance resulting from any activity deemed exempt per Subsection 19.402.4 will not be counted against the amount of disturbance allowed by Subsection 19.402.

b. Disturbance in Excess of that Allowed by Section 19.402

In accordance with Subsection 19.402.8, proposed development that would disturb more HCA than allowed by Subsections 19.402.11.D.1.a and b is subject to the Type III review process and general discretionary review criteria, as outlined in Subsection 19.402.12.C.1.

c. Disturbance Changes HCA Status

When disturbances within HCAs are allowed~~,~~ in accordance with the applicable provisions of Section 19.402, the City will remove the HCA designation from such disturbance areas on the NR Map, as provided in Subsection 19.402.15.B.

In the case of a request to develop within an HCA on a property where a prior development request was subject to the disturbance area limitations of Subsection 19.402.11.D.1, the calculation of the new amount of disturbance area allowed within the HCA on the property will be based on the mapped location of the HCA at the time of the request, notwithstanding any previous calculation of allowed disturbance area.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4.A or approvable through Type I review (Subsection 19.402.6.A).

An applicant must meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is one acre or more, the applicant must comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in Section 16.32.042 must be met when applicable.

a. Mitigation Option 1

This mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site must be replaced as shown in Table 19.402.11.D.2.a. Conifers must be replaced with conifers. Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Table 19.402.11.D.2.a Tree Replacement	
Size of Tree to be Removed **(inches in diameter)**	**Number of Trees and Shrubs to be Planted**
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

b. Mitigation Option 2

This mitigation requirement is calculated based on the size of the disturbance area within an HCA. Native trees and shrubs are required to be planted at a rate of 5 trees and 25 shrubs per 500 sq ft of disturbance area. This is calculated by dividing the number of square feet of disturbance area by 500, multiplying that result times 5 trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs. For example, if there will be 330 sq ft of disturbance area, then 330 divided by 500 equals 0.66, and 0.66 times 5 equals 3.3, so 3 trees must be planted, and 0.66 times 25 equals 16.5, so 17 shrubs must be planted. Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

c. Adjustments to HCA Mitigation Requirements

Proposals to vary the number or size of trees and shrubs required as mitigation in Subsection 19.402.11.D.2 are subject to the Type II review process and the requirements of Subsection 19.402.12.C.2.

E. Standards for Special Uses

Unless they are exempt per Subsection 19.402.4, or do not meet the nondiscretionary standards for HCAs provided in 19.402.11.D, the special uses listed in Subsection 19.402.7.A are subject to Type II review if they comply with the applicable standards in Subsection 19.402.11.E. Otherwise, the special uses listed in Subsection 19.402.7.A are subject to Type III review and the general discretionary review criteria provided in Subsection 19.402.12.

1. General Standards for Special Uses

Except for stormwater management plans, all nonexempt special uses listed in Subsections 19.402.11.E.2 through 5 that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D must comply with the specific applicable standards in Subsection 19.402.11.E, as well as with the following general standards:

a. In addition to a construction management plan prepared according to the standards of Subsection 19.402.9, a mitigation plan must be submitted per Subsection 19.402.11.D.2 or 19.402.12.C.2 for HCAs, as applicable, or per Subsection 19.402.11.C for WQRs. WQRs and HCAs must be restored and maintained in accordance with the approved mitigation plan.

b. Existing vegetation outside of approved work areas shall be protected and left in place. Work areas must be carefully located and marked to reduce potential damage to WQRs and HCAs. Trees in WQRs or HCAs must not be used as anchors for stabilizing construction equipment.

c. Where existing vegetation has been removed, or the original land contours disturbed, the site must be revegetated and the vegetation must be established as soon as practicable. Interim erosion control measures, such as mulching, must be used to avoid erosion on bare areas.

2. Public or Private Utility Facilities

In addition to the requirements of Subsection 19.402.11.E.1, the following disturbance area limitations apply to all new public and private utility facilities, as well as to facility upgrades that are not exempted by Subsection 19.402.4 or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D.

a. The disturbance area for the upgrade of existing utility facilities can be no greater than 15 ft wide.

b. The disturbance area for new underground utility facilities can be no greater than 25 ft wide and disturb no more than 200 linear feet of WQR within any 1,000-linear-foot stretch of WQR. Such a disturbance area must be restored with the exception of necessary access points to the utility facility.

c. Disturbance areas shall be revegetated.

d. No fill or excavation is allowed within the ordinary high water mark of a stream, unless a permit is obtained from the Corps through the Standard Local Operating Procedures for Endangered Species (SLOPES) process.

3. New Stormwater Facilities

In addition to the requirements of Subsection 19.402.11.E.1, new stormwater facilities that are not exempted by Subsection 19.402.4, or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D, must not encroach more than 25 ft into the outer boundary of the WQR adjacent to a primary protected water feature.

4. Walkways and Bike Paths

In addition to the requirements of Subsection 19.402.11.E.1, walkways and bike paths that are not exempted by Subsection 19.402.4, or that do not meet the nondiscretionary standards for HCAs provided in Subsection 19.402.11.D, and that are proposed to be constructed or improved with gravel, permeable pavement, pavers, wood, or other materials, must comply with the following standards:

a. Walkways and bike paths within WQRs or HCAs cannot exceed a 12-ft width.

b. If the proposed walkway or bike path will be located within a WQR and will be paved, then, for the purposes of evaluating the proposed project, the vegetated corridor ~~shall~~ must be widened by the width of the walkway or bike path.

c. The walkway or bike path must be designed to avoid WQRs and HCAs, to the greatest extent practicable, and must be constructed so as to minimize disturbance to existing vegetation and slope stability.

d. The walkway or bike path must be a minimum of 10 ft from the boundary of the protected water feature.

e. Where practicable, any lights associated with the walkway or bike path must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and

intensity of lighting must be selected so that impacts to habitat functions are minimized.

5. Stormwater Management Plans

   Stormwater management plans that authorize disturbance within the WQR or HCA may be approved if in compliance with all of the following standards:

   a. Stormwater facilities will be designed to provide an environmentally beneficial hydrological impact on protected water features.
   b. Protected water features will be protected from erosion by implementing a stream protection strategy and quantity control strategies.
   c. Watershed health will be improved through the use of vegetated facilities to meet pollution reduction, flow control, and infiltration goals. These facilities will be maintained in a manner that ensures a continued benefit to watershed health.
   d. Proposed stormwater management facilities will correct or improve conditions caused by past management and/or disturbance events, if any are present.
   e. Where there is no reasonable expectation of returning to natural conditions, beneficial habitat, vegetation, and stream function and hydrology will be restored to the fullest extent practicable within developed areas.

19.402.12 General Discretionary Review

This subsection establishes a discretionary process by which the City will analyze the impacts of development on WQRs and HCAs, including measures to prevent negative impacts and requirements for mitigation and enhancement. The Planning Manager may consult with a professional with appropriate expertise to evaluate an application, or they may rely on appropriate staff expertise to properly evaluate the report's conclusions.

A. Impact Evaluation and Alternatives Analysis

   An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria for general discretionary review and to evaluate development alternatives for a particular property. A report presenting this evaluation and analysis must be prepared and signed by a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist. At the Planning Manager’s discretion, the requirement to provide such a report may be waived for small projects that trigger discretionary review but can be evaluated without professional assistance.

   The alternatives will be evaluated on the basis of their impact on WQRs and HCAs, the ecological functions provided by the resource on the property, and offsite impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The evaluation and analysis must include the following:

   1. Identification of the ecological functions of riparian habitat found on the property, as described in Subsection 19.402.1.C.2.
   2. An inventory of vegetation, sufficient to categorize the existing condition of the WQR per Table 19.402.11.C, including the percentage of ground and canopy coverage materials within the WQR.
   3. An assessment of the water quality impacts related to the development, including sediments, temperature and nutrients, sediment control, and temperature control, or any other condition with the potential to cause the protected water feature to be listed on DEQ's 303(d) list.
   4. An alternatives analysis, providing an explanation of the rationale behind choosing the alternative selected, listing measures that will be taken to avoid and/or minimize adverse

impacts to designated natural resources, and demonstrating that:

a. No practicable alternatives to the requested development exist that will not disturb the WQR or HCA.

b. Development in the WQR and/or HCA has been limited to the area necessary to allow for the proposed use.

c. If disturbed, the WQR can be restored to an equal or better condition in accordance with Table 19.402.11.C~~;~~ and the HCA can be restored consistent with the mitigation requirements of Subsection 19.402.11.D.2.

d. Road crossings will be minimized as much as possible.

5. Evidence that the applicant has done the following, for applications proposing routine repair and maintenance, alteration, and/or total replacement of existing structures located within the WQR:

a. Demonstrated that no practicable alternative design or method of development exists that would have a lesser impact on the WQR than the one proposed. If no such practicable alternative design or method of development exists, the project will be conditioned to limit its disturbance and impact on the WQR to the minimum extent necessary to achieve the proposed repair/maintenance, alteration, and/or replacement.

b. Provided mitigation to ensure that impacts to the functions and values of the WQR will be mitigated or restored to the extent practicable.

6. A mitigation plan for the designated natural resource that contains the following information:

a. A description of adverse impacts that will be caused as a result of development.

b. An explanation of measures that will be taken to avoid, minimize, and/or mitigate adverse impacts to the designated natural resource~~;~~ in accordance with, but not limited to, Table 19.402.11.C for WQRs and Subsection 19.402.11.D.2 for HCAs.

c. Sufficient description to demonstrate how the following standards will be achieved:

(1) Where existing vegetation has been removed, the site must be revegetated as soon as practicable.

(2) Where practicable, lights must be placed so that they do not shine directly into any WQR and/or HCA location. The type, size, and intensity of lighting must be selected so that impacts to habitat functions are minimized.

(3) Areas of standing trees, shrubs, and natural vegetation will remain connected or contiguous; particularly along natural drainage courses, except where mitigation is approved; so as to provide a transition between the proposed development and the designated natural resource and to provide opportunity for food, water, and cover for animals located within the WQR.

d. A map showing where the specific mitigation activities will occur. Off-site mitigation related to WQRs cannot be used to meet the mitigation requirements of Section 19.402.

e. An implementation schedule; including a timeline for construction, mitigation, mitigation maintenance, monitoring, and reporting; as well as a contingency plan. All in-stream work in fish-bearing streams be done in accordance with the allowable windows for in-water work as designated by ODFW.

B. Approval Criteria

1. Unless specified elsewhere in Section 19.402, applications subject to the discretionary review process must demonstrate how the proposed activity complies with the following criteria:

a. Avoid

The proposed activity avoids the intrusion of development into the WQR and/or HCA to the extent practicable. The proposed activity must have less detrimental impact to the designated natural resource than other practicable alternatives, including significantly different practicable alternatives that propose less development within the resource area.

b. Minimize

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity within the resource area must minimize detrimental impacts to the extent practicable.

(1) The proposed activity must minimize detrimental impacts to ecological functions and loss of habitat, consistent with uses allowed by right under the base zone, to the extent practicable.

(2) To the extent practicable within the designated natural resource, the proposed activity must be designed, located, and constructed to:

(a) Minimize grading, removal of native vegetation, and disturbance and removal of native soils; by using the approaches described in Subsection 19.402.11.A, reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post, or piling foundation).

(b) Minimize adverse hydrological impacts on water resources.

(c) Minimize impacts on wildlife corridors and fish passage.

(d) Allow for use of other techniques to further minimize the impacts of development in the resource area; such as using native plants throughout the site (not just in the resource area), locating other required landscaping adjacent to the resource area, reducing light spill-off into the resource area from development, preserving and maintaining existing trees and tree canopy coverage, and/or planting trees where appropriate to maximize future tree canopy coverage.

c. Mitigate

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity must mitigate for adverse impacts to the resource area. All proposed mitigation plans must meet the following standards:

(1) The mitigation plan must demonstrate that it compensates for detrimental impacts to the ecological functions of resource areas, after taking into consideration the applicant's efforts to minimize such detrimental impacts.

(2) Mitigation must occur on the site of the disturbance, to the extent practicable. Off-site mitigation for disturbance of WQRs will not be approved. Off-site mitigation for disturbance of HCAs will be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and if the applicant has documented that they can carry out and ensure the success of the off-site mitigation as outlined in Subsection 19.402.11.B.5.

In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant must demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.

(3) All revegetation plantings must use native plants listed on the Milwaukie Plant List.

(4) All in-stream work in fish-bearing streams must be done in accordance with the allowable windows for in-water work as designated by ODFW.

(5) A mitigation maintenance plan must be included and must be sufficient to ensure the success of the planting. Compliance with the plan will be a condition of development approval.

2. Municipal Water Utility Facilities Standards

In addition to all other applicable criteria of Subsection 19.402.12.B, and if not already exempted by Subsection 19.402.4, municipal potable water, stormwater, and wastewater utility facilities (which may include, but are not limited to, water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines, terminal storage reservoirs, and outfall devices) may be built, expanded, repaired, maintained, reconfigured, rehabilitated, replaced, or upsized in accordance with the following criteria:

a. Such projects are not required to avoid the resource area per Subsection 19.402.12.B.1.a, provided that, where practicable, the project does not encroach closer to a protected water feature than existing operations and development; or, for new projects where there are no existing operations or development, provided that the project does not encroach closer to a protected water feature than practicable.

b. Best management practices will be employed that accomplish all of the following:

(1) Account for watershed assessment information in project design.

(2) Minimize the trench area and tree removal within the resource area.

(3) Utilize and maintain erosion controls until other site stabilization measures are established, post-construction.

(4) Replant immediately after backfilling, or as soon as effective.

(5) Preserve wetland soils and retain soil profiles.

(6) Minimize compactions and the duration of the work within the resource area.

(7) Complete in-water construction during appropriate seasons, or as approved within requisite federal or state permits.

(8) Monitor water quality during the construction phases, if applicable.

(9) Implement a full inspection and monitoring program during and after project completion, if applicable.

C. Limitations and Mitigation for Disturbance of HCAs

1. Discretionary Review to Approve Additional Disturbance within an HCA

An applicant seeking discretionary approval to disturb more of an HCA than is allowed by Subsection 19.402.11.D.1 must submit an Impact Evaluation and Alternatives Analysis, as outlined in Subsection 19.402.12.A, and will be subject to the approval criteria provided in Subsection 19.402.12.B.

An applicant may use the nondiscretionary mitigation options presented in Subsection 19.402.11.D.2 as a guide for proposing mitigation measures that will then be evaluated against the approval criteria provided in Subsection 19.402.12.B.

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs) but who will comply with all other applicable provisions of Subsection 19.402.11 will be subject to the following process:

a. The applicant shall submit the following information:

(1) A calculation of the number and size of trees and shrubs the applicant would be required to plant under Subsection 19.402.11.D.2.

(2) The number and size of trees and shrubs that the applicant proposes to plant.

(3) An explanation of how the proposed number and size of trees and shrubs will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2. Such explanation must be prepared and signed by a knowledgeable and qualified natural resource professional or a certified landscape architect. It must include discussion of site preparation including soil additives, removal of invasive and noxious vegetation, plant diversity, plant spacing, and planting season; and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control.

(4) A mitigation, site-monitoring, and site-reporting plan.

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.

b. Approval of the request shall be based on consideration of the following:

(1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.

(2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.

(3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.402.13 Land Division and Property Line Adjustments

The following standards apply to property line adjustments and all forms of land division defined in Chapter 17.08. These standards apply in addition to the applicable requirements provided in Title 17 Land Division and elsewhere in Title 19 Zoning. Lot consolidations, as defined in Chapter 17.08, are not subject to the provisions of Section 19.402.

A. Boundary Verification

Whether or not an applicant believes the NR Map is accurate, the applicant must verify the boundaries of the WQR and HCA on the property according to Subsection 19.402.15.

B. Construction Management Plans

1. In accordance with Subsection 19.402.9, a construction management plan is required for applications for land division that will require physical site improvements (e.g., grading and/or construction of structures, streets, or utilities) within, or within 100 ft of, a WQR or HCA.

2. A construction management plan is not required for applications for land division that do not require grading; constructing structures, streets, or utilities; or making other physical improvements to the site.

C. Impacts from Site Improvements

Applications for land division that will require physical site improvements (e.g., grading and/or the

construction of streets, sidewalks, culverts, bridges, or utilities) within a WQR or HCA must comply with the relevant standards for disturbance limitation and mitigation provided in Subsections 19.402.11 and/or 19.402.12, as applicable.

D. Mitigation for Future Structures or Improvements

Applications proposing a division of land on which future construction may impact a WQR or HCA must comply with one of the following two standards:

1. Complete the mitigation requirements for any impacts to the WQR or HCA, in accordance with the requirements of Section 19.402, thereby exempting all subsequent development on lots containing a WQR and/or HCA from further review if in compliance with the related approval. When mitigation is required for new streets created as part of a subdivision, as outlined in Subsection 19.402.13.H, such mitigation must be completed prior to approval of the final plat for the subdivision, unless the Planning Commission's approval establishes a different schedule.
2. Not complete the mitigation requirements, thus requiring that any subsequent development be subject to review under Section 19.402.

E. Property Line Adjustments

Applications for property line adjustment, when any of the properties include HCAs, must address the resulting change in the percentage of HCA coverage on each property and demonstrate compliance with one of the following standards:

1. The proposed property line adjustment will result in no more than a 30-point difference in the percentage of HCA coverage on each property. Such an adjustment is subject to the Type I review process.
2. The proposed property line adjustment will not contravene a condition of approval related to HCA distribution from a previously approved land division. Such an adjustment is subject to the Type I review process.
3. The proposed property line adjustment cannot meet the standard of Subsection 19.402.13.E.1, above, but will result in the smallest practicable difference in the percentage of HCA coverage on each property. Furthermore, the new boundary configuration will mitigate, to the extent practicable, the potential future impacts to the HCA from access and development. Such an adjustment is subject to the Type II review process.

F. Low-Impact Partitions

Applications for partitions are subject to Type I review if they demonstrate compliance with the following standards:

1. For properties that contain HCAs, but no WQRs, and where the HCA covers 85% or less of the total lot area, the partition must achieve either of the following results:
   a. There must be no more than a 30-point difference in the percentage of HCA coverage on each of the new parcels. For example, a two-lot partition that would produce one parcel that is 55% HCA and the other that is 30% HCA is permissible with Type I review, whereas a two-lot partition that would produce one parcel that is 75% HCA and the other that is 40% HCA is not permissible with Type I review and will be subject to the standards of Subsection 19.402.13.G.
   b. At least 90% of the original property's HCA is on a separate unbuildable parcel, protected by a conservation restriction.
2. For properties that contain WQRs, the applicant must place 100% of the WQR in a separate unbuildable tract, protected by a conservation restriction.

3. For properties that contain both WQRs and HCAs, the applicant must comply with both of the standards listed above in Subsections 19.402.13.F.1 and 2.
4. For properties where the HCA covers more than 85% of the total lot area, the proposed partition is subject to the standards and review process established in Subsection 19.402.13.G.

G. All Other Partitions

Applications for partitions that cannot comply with Subsection 19.402.13.F are subject to Type II review and must comply with one of the following two standards:

1. For properties that do not contain any WQRs, but for which it is not practicable to comply with the partition standards in Subsection 19.402.13.F.1, and where the HCA covers 85% or less of the total lot area, the application must meet the following standards and is not subject to the requirements of Subsection 19.402.12:
   a. The partition plan will result in the smallest practicable percentage point difference in HCA coverage on the parcels created by the partition.
   b. To the extent practicable, the parcel configuration will mitigate the potential future impacts to the HCA from access and development.
2. For properties that contain WQRs but cannot comply with Subsection 19.402.13.F.2, that contain both WQRs and HCAs but cannot comply with Subsection 19.402.13.F.3, or where the HCA covers more than 85% of the total lot area, the application must comply with the following standards:
   a. To the extent practicable, the parcel configuration must mitigate the potential future impacts to WQRs from access and development.
   b. An Impact Evaluation and Alternatives Analysis must be prepared in accordance with the relevant portions of Subsection 19.402.12.A.
   c. For properties where the HCA covers more than 85% of the total lot area, the Impact Evaluation and Alternatives Analysis must address how the applicant's proposal retains the greatest practicable degree of contiguity of the HCA across the new parcels.

H. Subdivisions

Applications for subdivisions are subject to Type II review and must comply with one of the following two standards:

1. At least 90% of the property's HCA and 100% of the property's WQR must be located in a separate tract. Applications that meet this standard are not subject to the discretionary review requirements of Subsection 19.402.12.
2. If a subdivision cannot comply with the standards in Subsection 19.402.13.H.1, the application must comply with the following standards:
   a. All proposed lots must have adequate buildable area outside of the WQR and HCA.
   b. To the extent practicable, the lot and access configurations must mitigate the potential future impacts to the WQR and HCA from access and development.
   c. An Impact Evaluation and Alternatives Analysis must be prepared in accordance with the relevant portions of Subsection 19.402.12.A.
   d. For properties where the HCA covers more than 85% of the total lot area, the Impact Evaluation and Alternatives Analysis must address how the applicant's proposal retains the greatest practicable degree of contiguity of the HCA across the new lots.

I. Resource Area as a Separate Tract

Where required by Section 19.402, the new subdivision or partition plat must delineate and show all WQRs and HCAs as being located in a separate unbuildable tract(s) according to the following process:

1. Prior to preliminary plat approval, the designated natural resource (whether WQR, HCA, or both) must be shown as a separate tract(s), which cannot be part of any lot or parcel used for construction of any structures.
2. Prior to final plat approval, ownership of the separate natural resource tract(s) must be identified to distinguish it from lots or parcels intended for sale. Ownership in common or by a homeowners association is strongly discouraged. The tract(s) may be identified as any one of the following:
   a. Private natural area held by the owner with a restrictive covenant and/or conservation easement.
   b. For residential subdivisions, private natural area subject to an easement conveying storm and surface water management rights to the City of Milwaukie, Clackamas County Water Environment Services, and/or any other relevant jurisdiction, and preventing the owner of the tract from activities and uses inconsistent with the purposes of Section 19.402.
   c. Public natural area where the tract has been dedicated to the City of Milwaukie or a private nonprofit with the mission of land conservation.
3. The boundaries of all such separate tracts must be demarcated with stakes, flags, or some similar means so that the boundaries between tracts and adjacent properties are defined in perpetuity. Fences that prevent the unfettered passage of wildlife cannot be installed along the boundary of any tract.

19.402.14 Adjustments and Variances

To encourage applicants to avoid or minimize impacts to WQRs and/or HCAs, several types of adjustments and variances are available for use on any property that includes a WQR or HCA. These include adjustments to specific base zone and lot design standards, discretionary variances, and allowances for residential cluster development.

A. Adjustments

The adjustments provided in Subsection 19.402.14.A cannot be used to avoid the requirement to submit a construction management plan, if deemed applicable per Subsection 19.402.3. The following adjustments are allowed by right as part of any Type I, II, or III application:

1. Adjustments to Base Zone Standards
   a. Yard Setback (General)

      Yard setback standards may be adjusted by up to 10%. This allowance applies only to the yard requirements established in base zones and does not apply to additional yard requirements for conditional uses or community service uses, yard exceptions established in Subsection 19.501.2, or transition area measures established in Subsection 19.504.4.

   b. Rear Yard Setback (Limited)

      For residential development, if the subject property is adjacent to a separate tract that was established according to the standards of Subsection 19.402.13.J and the tract is adjacent to the rear yard of the subject property, the minimum rear yard requirement may be reduced to 10 ft.

2. Adjustments to Lot Design Standards

   When property boundaries are changed and/or land divided per Title 17 Land Division, an applicant may utilize the following adjustments to avoid or minimize impacts to a WQR or HCA:

   a. The minimum base zone standards for lot width and lot depth may be reduced by up to 10%.

   b. The minimum lot frontage required on a public street may be reduced by up to 10%.

B. Variances

1. Requests to vary any standards beyond the adjustments allowed in Subsections 19.402.14.A or B are subject to the review process and approval criteria for variances established in Section 19.911.
2. In granting any variance request related to Section 19.402, the Planning Commission may impose such conditions as are deemed necessary to minimize adverse impacts that may result from granting the variance. Examples of such conditions include, but are not limited to, maintaining a minimum width of the vegetated corridor alongside a primary protected water feature and limiting the amount of WQR for which the adjacent vegetated corridor width can be reduced.

19.402.15 Boundary Verification and Map Administration

The NR Map shows the locations of WQRs and HCAs. For WQRs, the NR Map is a general indicator of protected water features and their associated vegetated corridors; the location of actual WQRs is determined according to the parameters established in Table 19.402.15. With respect to HCA locations, the NR Map is assumed to be correct unless demonstrated otherwise.

Table 19.402.15
Determination of WQR Location

Protected Water Feature Type	Slope Adjacent to Protected Water Feature	Starting Point for measurements from Protected Water Feature	Width of Vegetated Corridor[1]
Primary Protected Water Features[2]	< 25%	• Bankful stage (top of bank) or 2-year recurrence interval flood elevation • Delineated edge of Title 3 wetland	50′
Primary Protected Water Features[2]	≥ 25% for 150' or more[3]	• Bankful stage or 2-year flood elevation • Delineated edge of Title 3 wetland	200′
Primary Protected Water Features[2]	≥ 25% for less than 150'[3]	• Bankful stage or 2-year flood elevation • Delineated edge of Title 3 wetland	Distance from starting point of measurement to top of ravine (break in ≥ 25% slope)[4] plus 50′[5]
Secondary Protected Water Features[6]	< 25%	• Bankful stage or 2-year flood elevation	15′

Table 19.402.15 Determination of WQR Location			
Protected Water Feature Type	**Slope Adjacent to Protected Water Feature**	**Starting Point for measurements from Protected Water Feature**	**Width of Vegetated Corridor[1]**
Secondary Protected Water Features[6]	≥ 25%[3]	• Bankful stage or 2-year flood elevation	50′

[1] Vegetated corridor width will be applied to the outer boundaries of water features, such as the edge of a wetland and both banks of a watercourse.

[2] Primary protected water features include~~:~~ all perennial streams, streams draining 100 or more acres, Title 3 wetlands, and natural lakes and springs. See Section 19.201 for the full definition.

[3] Vegetated corridors in excess of 50 ft for primary protected features, or in excess of 15 ft for secondary protected features, apply on steep slopes only in the uphill direction from the protected water feature.

[4] Where the protected water feature is confined by a ravine or gully, the top of ravine is the break in the 25% slope.

[5] A maximum reduction of 25 ft may be permitted in the width of the vegetated corridor beyond the slope break if a geotechnical report demonstrates that the slope is stable. To establish the width of the vegetated corridor, slope will be measured in 25-ft increments away from the water feature until the slope is less than 25% (top of ravine).

[6] Secondary protected water features include intermittent streams draining 50 to 100 acres. See Section 19.201 for the full definition.

A. Boundary Verification

To determine whether the standards of Section 19.402 apply to a proposed activity at any given location, the boundaries of any designated natural resource(s) on or near the site must be verified.

Agreement with the accuracy of the NR Map does not constitute or require a land use decision. However, for activities proposed within 100 ft of a wetland or its associated vegetated corridor, the boundary verification process outlined in Subsection 19.402.15.A.2.a(1)(b) must be followed to identify the specific location of wetlands on the subject property. The Planning Manager may waive the requirement for official wetland delineation, depending on the specific circumstances of the site and the proposed activity. Such circumstances may include, but are not limited to, the scale and potential impacts of the proposed activity, the proximity of the proposed activity to the mapped resource, and the Manager's confidence in the accuracy of the NR Map relative to the resource in question.

An applicant may challenge the accuracy of the NR Map through either of the boundary verification processes outlined in Subsections 19.402.15.A.1 and 2.

1. Type I Boundary Verification

The following minor corrections to mapped HCAs may be proposed according to one of the following procedures, and are subject to Type I review per Section 19.1004:

a. Simple Incongruities

In some cases, the vegetative cover data shown on the NR Map might not align with the location of existing legally established development or tree cover. An applicant who believes

that the NR Map is inaccurate, based on such an obvious misalignment, must submit the following information regarding the property:

(1) A detailed property description and site plan of the property that includes all existing conditions plans listed on the City's Site Plan Requirements checklist.

(2) A copy of the applicable NR Map section.

(3) The latest available aerial photograph of the property, with lot lines shown, at a scale of at least 1 map inch equal to 50 ft for lots of 20,000 or fewer square feet, and a scale of 1 map inch equal to 100 ft for larger lots.

(4) A documented demonstration of the misalignment between the NR Map and the property's tax lot boundary lines and/or the location of existing legally established development.

(5) Any other factual information that the applicant wishes to provide to support boundary verification.

b. Legal Development Prior to Adoption Date

If a property was legally developed between the summer of 2002 (when the aerial photograph used to determine the regional habitat inventory was taken) and September 15, 2011, the effective date of Ordinance #2036, the applicant must submit the following information regarding the property:

(1) The information described in Subsection 19.402.15.A.1.a.

(2) A summer 2002 aerial photograph of the property, with lot lines shown, at a scale of at least 1 map inch equal to 50 ft for lots of 20,000 or fewer square feet, and a scale of 1 map inch equal to 100 ft for larger lots.

(3) Any approved building permits or other development plans and drawings related to the development of the property that took place between summer 2002 and September 15, 2011, the effective date of Ordinance #2036.

(4) A clear explanation and documentation, such as supporting maps or drawings or a more recent aerial photograph, indicating the new development that has occurred and where previously identified habitat no longer exists because it is now part of a developed area.

2. Type II Boundary Verification

Corrections to mapped WQRs and/or detailed verification of mapped HCAs may be proposed according to the following procedures and are subject to Type II review per Section 19.1005.

a. Corrections to WQRs

(1) Submittal Requirements

To propose a correction to a WQR shown on the NR Map, the applicant must submit the following information, depending on the type of water feature in question:

(a) Drainages

In the case of drainages; including rivers, streams, springs, and natural lakes; the applicant must submit a report, prepared by a qualified scientist or professional engineer who specializes in hydrology, demonstrating whether or not the drainage meets the definition of a protected water feature. If the drainage is demonstrated to be a protected water feature, the applicant must provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the drainage on the subject property.

(b) Wetlands

In the case of wetlands, the applicant must submit a wetland delineation report, prepared by a professional wetland specialist in accordance with the 1996 Oregon Freshwater Wetland Assessment Methodology and following the wetlands delineation process established by DSL, demonstrating the location of any wetlands on the site. The delineation report will be accepted only after approval by DSL. If the wetland is demonstrated to be a primary protected water feature, the applicant must provide a topographic map of the site, with contour intervals of 5 ft or less, that shows the specific location of the wetland on the subject property.

The Planning Manager will confer with DSL and Metro to confirm delineation and hydrology reports, as may be needed, prior to issuing a notice of decision on a requested map correction. In cases where the City initiates the boundary verification for purposes of improving the accuracy of the NR map, a formal delineation approval by DSL is not required, though a report following the delineation process established by DSL must be provided.

(2) Approval Criteria

The City will update the NR Map if the wetland or hydrology report submitted demonstrates any of the following:

(a) That there was an error in the original mapping.

(b) That the boundaries of the WQR have changed since the most recent update to the NR Map.

(c) That a primary protected water feature no longer exists because the area has been legally filled, culverted, or developed prior to January 16, 2003, the effective date of Ordinance #1912.

b. Detailed Verification of HCAs

An applicant who believes that an HCA shown on the NR Map should be corrected for a reason other than those described in Subsections 19.402.15.A.1.a or b may propose a detailed verification.

(1) Submittal Requirements

The applicant must submit a report prepared and signed by either a knowledgeable and qualified natural resource professional; such as a wildlife biologist, botanist, or hydrologist; or a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, stormwater facilities, or other similar facilities. The report must include:

(a) A description of the qualifications and experience of all persons that contributed to the report and, for each person that contributed, a description of the elements of the analysis to which the person contributed.

(b) The information described in Subsection 19.402.15.A.1.a.

(c) The information described in Subsection 19.402.15.A.1.b, if the applicant believes such information is relevant to the verification of habitat location on the subject lot or parcel.

(d) Additional aerial photographs, if the applicant believes they provide better information regarding the property, including documentation of the date and process used to take the photos and an expert's interpretation of the additional information

they provide.

(e) A map showing the topography of the property shown by 2-ft vertical contours in areas of slopes less than 15%, and at 5-ft vertical contours of slopes 15% or greater.

(f) Any additional information necessary to address each of the detailed verification criteria provided in Subsection 19.402.15.A.2.b.(2); a description of where any HCAs are located on the property, based on the application of the detailed verification criteria; and factual documentation to support the analysis.

(2) Approval Criteria

A boundary verification request submitted under Subsection 19.402.15.A.2.b will be evaluated according to the following three-step process:

(a) Identify Riparian Habitat

Locate the water feature that is the basis for identifying riparian habitat.

(i) Locate the top of bank of all streams, rivers, and open water within 200 ft of the property.

(ii) Locate all flood areas within 100 ft of the property.

(iii) Locate all wetlands within 150 ft of the property, based on the NR Map. Identified wetlands must be further defined or informally delineated consistent with methods currently accepted by DSL and the Corps.

(b) Identify Vegetative Cover Status

Identify the vegetative cover status of all undeveloped areas on the property that are within 200 ft of the top of bank of streams, rivers, and open water; are wetlands or are within 150 ft of wetlands; and are flood areas (i.e., 100-year floodplain) and within 100 ft of flood areas. For purposes of this subsection, “undeveloped areas” means those portions of the property that have not been changed from a more natural, pre-development state by buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas and walkways), hardscape landscaping, above-ground utilities, and/or similar improvements.

Determine whether these undeveloped areas fall into any of the following three categories:

(i) Low structure vegetation or open soils = Undeveloped areas that are part of a contiguous area 1 acre or larger of grass, meadow, croplands, or areas of open soils located within 300 ft of a surface stream. Low structure vegetation areas may include areas of shrub vegetation less than 1 acre in size; if they are contiguous with areas of grass, meadow, croplands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 ft of a surface stream; and if those contiguous areas together form an area of 1 acre in size or larger.

(ii) Woody vegetation = Undeveloped areas that are part of a contiguous area 1 acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 ft of a surface stream.

(iii) Forest canopy = Undeveloped areas that are part of a contiguous grove of trees of 1 acre or larger in area with approximately 60% or greater crown

closure, irrespective of whether the entire grove is within 200 ft of the relevant water feature.

(c) Confirm HCA Boundaries

Using Table 19.402.15.A.2.b.(2).(c), determine whether any portion of the identified undeveloped riparian areas on the subject property is classifiable as HCA.

Table 19.402.15.A.2.b.(2).(c)
Identifying Habitat Conservation Areas (HCAs)

Distance from Protected Water Feature	Vegetation Status of Undeveloped Riparian Area		
	Low Structure Vegetation or Open Soils	**Woody Vegetation** (shrub and scattered forest canopy)	**Forest Canopy** (closed to open forest canopy)
Surface Streams			
0 ft – 100 ft	HCA	HCA	HCA
101 ft – 200 ft	HCA if slope >25%[1] (otherwise not HCA)	HCA if slope >25%[1] (otherwise not HCA)	HCA[2]
Wetlands (wetland feature itself is an HCA)			
0 ft – 100 ft	HCA	HCA	HCA
101 ft – 150 ft	Not HCA	Not HCA	HCA
Flood Areas (FEMA's 1% annual chance flood hazard area or 1996 Metro flood area)			
Within 300 ft of river or surface stream	HCA	HCA	HCA
More than 300 ft from river or surface stream	HCA	HCA	HCA
0 ft – 100 ft from edge of flood area	Not HCA	HCA	HCA

[1] Measure slope adjacent to the protected water feature using the methodology outlined in Table 19.402.15.

[2] Those portions of the riparian area that are 151 to 200 ft from the protected water feature and have a slope less than 25% are not HCA.

(3) Notification to Metro and DLCD

When an application for boundary verification proposes corrections to mapped HCAs that would result in a change in HCA designation of 1 acre or more, the City will notify Metro and the Oregon Department of Land Conservation and Development within 7 days after the application has been deemed complete, in accordance with the Type II referral procedure outlined in Subsection 19.1005.3.A.

3. Type III or V Boundary Verification

   Corrections to mapped WQRs or HCAs that are not subject to processing according to the provisions outlined in either of Subsection 19.402.15.A.1 or A.2, such as in cases where the City initiates the change without property owner authorization and/or where the changes involve more properties than for which it is practicable to obtain all property owners' authorization, will be processed in accordance with the procedures for zoning map amendments as provided in Subsection 19.902.6. Such corrections will be processed with either Type III or Type V review, accordingly, but do not constitute amendments to the Zoning Map itself, only to the NR Map.

B. Map Administration

1. Updates to the NR Map

   When a boundary verification, conducted in accordance with the standards of Subsection 19.402.15.A, demonstrates an error in the location of a WQR or HCA shown on the NR Map, the City will update the NR Map to incorporate the corrected information as soon as practicable. Changes to the NR Map are not considered amendments to the City's Comprehensive Plan, to Comprehensive Plan Map 6 (Natural Resources Inventory), or to the Zoning Map.

2. Mapping Implications of Allowed Disturbances

   a. WQRs

      Permanent disturbances within a WQR, whether they occurred prior to the adoption of the Zoning Ordinance or are allowed according to the standards of Section 19.402, do not affect the way related WQRs are shown on the NR Map.

   b. HCAs

      When disturbances are allowed within HCAs, in accordance with the applicable standards of Section 19.402, the City may update the NR Map to show that the permanently disturbed area is no longer considered an HCA.

3. Designation of Annexed Areas

   When land annexed to the City includes WQRs and/or HCAs, as designated by Clackamas County, those same designations will be shown on the City's NR Map at the time of annexation. Verification of the boundaries of such WQRs and/or HCAs will be processed in accordance with the applicable provisions established in Subsection 19.402.15.A; not necessarily at the time of annexation, but at such time as a new activity is proposed on the annexed property.

TITLE 16 ENVIRONMENT

CHAPTER 16.32 TREE CODE

ARTICLE II Street Trees and Public Trees

Section 16.32.026 Major Pruning or Removal of Street Trees and Public Trees

A. Applicability

1. No person will perform major tree pruning or remove any street tree or public tree without first obtaining a permit issued by the City.
   a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
   b. For street trees, the applicant must be the City, the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
   c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.
2. For public trees, this chapter will be applied in conjunction with any applicable standards in Title 19 Zoning, including those of Section 19.402 Natural Resources.

ARTICLE III Private Trees in Residential Zones

Section 16.32.042 Tree Preservation and Planting with Development in Residential Zones

B. Tree Preservation Standards

1. Healthy trees at least 6-in DBH are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts.
2. Preservation of at least 30% on-site healthy private tree canopy coverage is required unless mitigation is provided according to Subsection 16.32.042.E. See Figures 16.32.042.B.2-a and B.2-b for examples of when mitigation is or is not required. (See Subsection 16.32.042.D.3 for information on calculating tree canopy coverage.)
3. For development sites with 30% or less on-site healthy private tree canopy coverage, the removal of healthy private tree canopy is not allowed unless mitigation is provided according to Subsection 16.32.042.E.
4. Trees of any size that are listed on the Milwaukie Rare or Threatened Tree List must be prioritized for preservation; if removed, healthy trees from this list will incur an additional fee as listed on the Consolidated Fee Schedule.
5. Unhealthy trees and tree~~s~~ species on the Oregon State Noxious Weed List or Milwaukie Invasive Tree List, as well as trees within designated natural resource areas (as per Section 19.402) that are listed as nuisance species on the Milwaukie Plant List, are not required to be preserved in conjunction with applicable development as established in Subsection 16.32.042.A.

6. The applicant must provide a performance bond for existing trees that are preserved for purposes of addressing the 30% canopy coverage standard, to ensure their survival for such period of time as identified in the Consolidated Fee Schedule. On-site trees may be exempt from the performance bond requirements if the Urban Forester or an ISA Certified Arborist determine that construction activities do not present a significant impact to tree health. Existing trees used for canopy credit do not qualify for removal based on the criteria outlined in Subsection 16.32.044 D.2.(11).

D. Tree Canopy Calculations and Credits

The following situations are eligible for credit towards tree canopy requirements when trees are planted or preserved in accordance with applicable City standards:

1. On-Site Trees
   a. 100% of the existing crown area or mature crown area of on-site healthy private trees that are preserved, whichever is greater.
      (1) In cases where a portion of the crown area of an on-site healthy private tree extends off site, the entire crown area is eligible for credit towards the tree canopy requirements.
      (2) In cases where a portion of the crown area of an off-site private tree extends on site, the crown area is not eligible for credit towards the tree canopy requirements.
      (3) Healthy on-site trees with DBH of 12 inches or greater may receive additional canopy credits for existing or future mature crown area (whichever is greater) to be factored into preservation calculations as defined in the Consolidated Fee Schedule.
   b. 75% of the future mature crown area of planted on-site private trees.

Section 16.32.044 Non-Development Private Tree Removal in Residential Zones

A. Applicability

A permit is required prior to the removal of the following private trees in residential zones:

1. Trees that are at least six-inch DBH.
2. Trees that are less than six-inch DBH as specified on the Milwaukie Rare or Threatened Tree List.
3. Trees that were planted to meet any requirements in Sections 16.32.042 or 16.32.044.

B. Permit Exemptions

Tree removal permits are not required in residential zones when:

1. Tree removal is approved with development as provided in Subsection 16.32.042.A.
2. The removal is of trees that are grown for commercial, agricultural, or horticultural purposes including fruit trees, nut trees, or holiday trees.
3. The removal is of a tree(s) within a designated natural resource area as regulated by Section 19.402. Such removal will be governed by the applicable standards of Section 19.402 unless otherwise noted. If the removal does not meet the approval criteria for a Type A permit as outlined in Subsection 16.32.044.D.2, a Type B permit will be required (including applicable mitigation fees as listed in the Consolidated Fee Schedule).

D. Type A Tree Removal Permit

2. Approval Criteria

A Type A permit will be issued only if the following criteria are met, as determined by the Urban Forester:

a. The proposed tree removal will be performed according to current ISA Best Management Practices.

b. The tree proposed for removal meets one or more of the following criteria:

(1) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(2) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(3) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(4) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist that is Tree Risk Assessment Qualified (TRAQ) in accordance with current ISA Tree Risk Assessment Best Management Practices.

(5) The tree is on the Oregon State Noxious Weed List or the Milwaukie Invasive Tree List; or, if located within a designated natural resources area as regulated by Section 19.402, the tree is listed as a nuisance species on the Milwaukie Plant List.

(6) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(7) The tree location conflicts with areas of public street widening, construction, or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(8) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation, or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(9) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that would result in tree retention.

(10) An ISA Certified Arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80% canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(11) Healthy trees. One healthy tree may be removed per tax lot per twelve-month period if the tree is less than 12 inches in diameter at breast height and is not required to be preserved by a condition of a land use review, a provision of Chapter 16.32 or Title 19, or as part of a required stormwater facility.

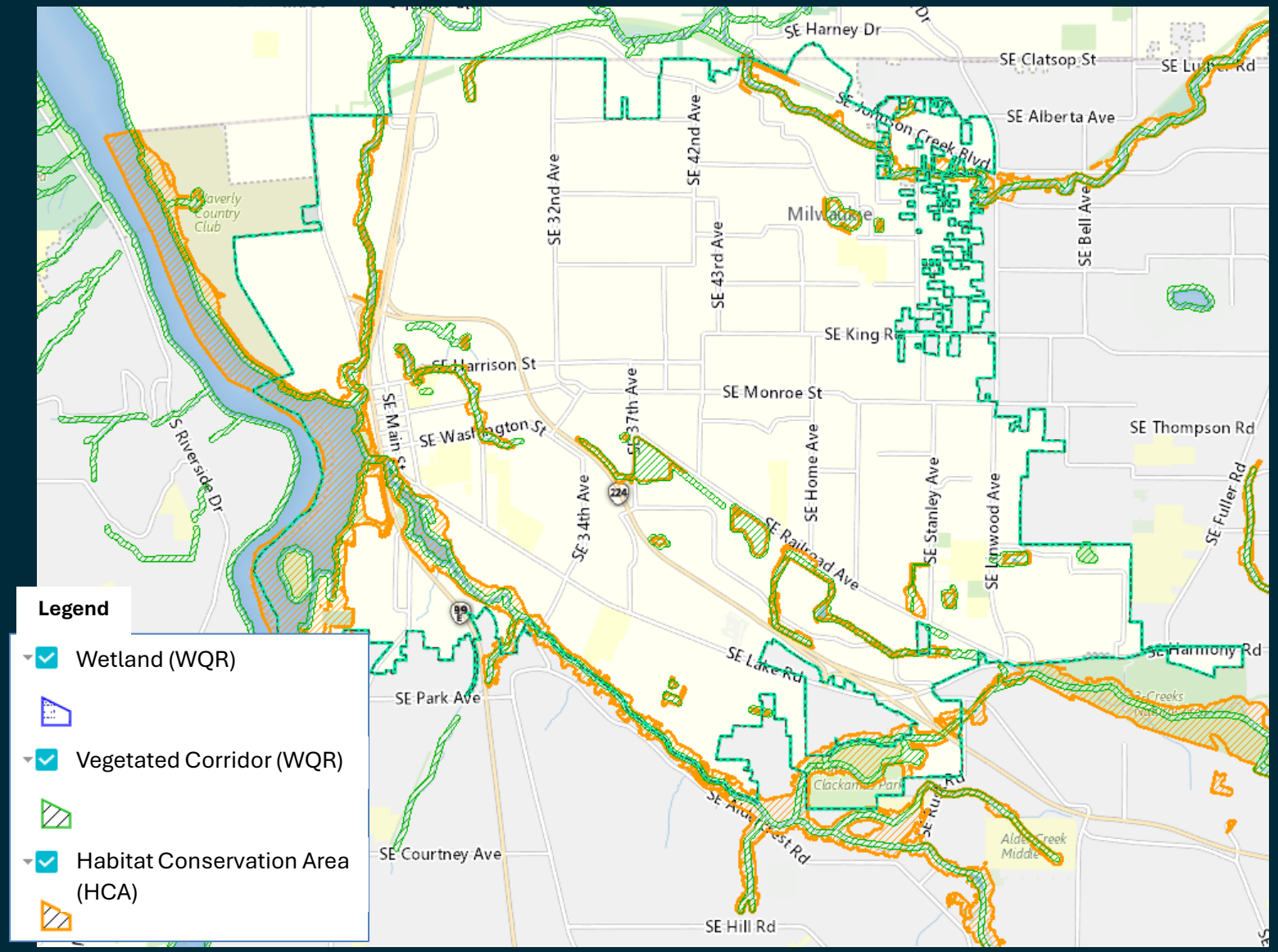
SPS 8. A. 7/8/25
Presentation

Amendments to Natural Resources Code

City Council
Adoption Hearing
July 8, 2025

Brett Kelver, Senior Planner

Natural Resources in Milwaukie



- Water Quality Resource (WQR)
- Habitat Conservation Area (HCA)
- Focused on creeks, streams, wetlands
- Standards established in MMC 19.402

Updates to NR code

Goals:

- Better integration with tree code.
- General code fixes—including clear & objective WQR standards for housing development.
- Natural resource mapping adjustments.

Exemption for Benches in WQR

19.402.4 Exempt Activities

A. Outright Exemptions

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees ~~of~~ larger than 6-in diameter at breast height (DBH) or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland. This exemption extends to the installation of benches, chairs, and similar unsheltered sitting apparatus within 30 ft or less of the top of bank or within 50 ft or less of the edge of a wetland, provided that the installation involves no more than 4 sq ft of disturbance per apparatus and that no more than one bench or sitting apparatus is installed per 100 lineal feet along the top of bank or edge of wetland. All temporary disturbances must be restored.

Decision-Making Options

1. Adopt the proposed amendments as presented, with the recommended Findings in Support of Approval (presented as Attachment 1-A).
2. Adopt the proposed amendments with additional revisions, revising the recommended Findings as needed.
3. Continue the hearing.
4. Deny the proposed amendments, revising the recommended Findings as needed.

Questions?

Approval Criteria (Type V code amendments)

Amendments to Zoning Text (MMC 19.902.5.B) must show consistency with:

1. Other parts of Milwaukie Municipal Code
2. Goals/policies of Comp Plan
3. Metro Urban Growth Management Functional Plan
4. State statutes and Statewide Planning Goals
5. Relevant federal regulations

Type I WQR Disturbance

Proposed Standards

- Disturbance must be related to construction of a new dwelling unit (max disturbance = 800 sq ft).
- Limited to situations where there is little area to develop outside the WQR (1,500 sq ft or less).
  - ❑ Not available where WQR is categorized as Class A ("Good").
  - ❑ At least 30-ft separation from top of bank of a stream (or 50 ft from edge of wetland).
  - ❑ No removal of native-species trees ≥ 6-in DBH.
  - ❑ No increase in direct stormwater discharges to the WQR.

Type I WQR Disturbance

Proposed Calculation of Allowed WQR Disturbance

- Area of the site not categorized as WQR and outside the minimum required yard setbacks = must be 1,500 sq ft or less.

Formula

WQR area – non-WQR area = if positive number, that amount of WQR can be disturbed (up to max of 800 sq ft).

PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have appeal standing and/or to be on the mailing list for Council information from tonight's hearing, please sign in below.

7/8/2025 | **SPS 8. A. Natural Resource Code Update – Ordinance, continued**

Land Use File No. ZA-2025-001

NAME	ADDRESS	PHONE	EMAIL

Attendance Sign-Up Sheet Page 1 of 1

SPS Agenda Item 9

Council Reports

SPS 9.
7/8/25

From: Lisa Batey
To: City Council; Peter Passarelli; Michael Osborne
Subject: response to Governor"s office request on problems for cities from failure of the transportation bill
Date: Tuesday, July 8, 2025 9:27:24 AM

All: [Scott, please add this to the packet for tonight's meeting]

Late last week, the MMC got a request from the Governor's Office for an assessment of impact on the cities from the failure of the transportation funding package. I gather this is part of her consideration in what a proposal might look like in a special session. The question was sort of focused on layoffs, but at least the smaller cities are not really facing layoffs because we didn't budget based on speculative income. So the mayors agreed to pivot to talking about the impact more broadly.

Thanks to Emma and staff, and to the Council President, for contributing to the answer I sent, which is below.

Input from Milwaukie

The untenable situation created by Measures 5 and 50 have pushed many cities to layoffs. Milwaukie is in the middle of our two-year budget cycle, so the failure of the transportation package does not require layoffs in the coming year. It will, however, exacerbate the hard choices to be made in our next budget cycle – our revenue forecast shows Milwaukie operating in the red in 3-5 years without a new source of revenue. Inflation is something we need to account for in financing public services, and the failure of the 2017 transportation package to index the gas tax to inflation created financial hardship for all levels of government.

The revenue that would have come from the -28 amendment to HB 2025 would not resolve our larger fiscal challenges, but it is an important component. The traditional 50/30/20 split is also incredibly important because some of the revenue tools (registration, title, vehicle sales) are not easily administered by cities. The reality is that the state is best positioned to gather such taxes and then subsequently share the revenue.

Here are some specific concerns here in Milwaukie:

1. **Delayed projects and capital investments:** Our current five-year Capital Improvement Plan includes more than $14M of needed transportation investments that require state funding to deliver. This includes street paving and repair

projects, ADA improvements, sidewalk gap infill, general maintenance, critical signal and intersection improvements, and long overdue safety projects, several near schools or in growing neighborhoods. In turn, we only receive around $1.6M in annual state funding; not enough to address that project backlog. The lack of increase in funding from the state means many of these projects—as well as projects being identified right now through our 20-year Transportation System Plan development process—will have to be delayed or cut.

2. **Puts Kellogg Dam removal project at further risk:** The funding plan for the removal of this over 150-year-old dam and restoration of 17 miles of fish passage, along with 13+ acres of greenspace, has been thwarted by changes in federal transportation funding, but work has continued and new funding sources are being explored. With ODOT facing deep cuts and layoffs, its ability to staff and coordinate complex infrastructure projects like Kellogg Dam will likely be impacted. ODOT is one of the four parties leading this project, along with American Rivers, the North Clackamas Watersheds Council, and the City of Milwaukie. The City has pursued removal of the dam since the late 1990s, and ODF&W has identified as the #1 fish passage barrier on any facility owned by ODOT.

3. **Reduces our ability to proactively plan for growth and address longstanding safety issues:** Milwaukie is doing a lot to advance the state's goals of housing production, climate friendliness, and affordability. We have seen probably 100 middle housing units built with many more in the pipeline, but most significantly have 400 new affordable housing units opening in the next eight months at Clackamas County's Hillside campus. Those efforts also put a strain on infrastructure, and particularly on our road system. A prime example is the intersection of SE 32nd and Harrison. With its placement just a few blocks from a railroad line, and with our first responders (both police and fire) located at that intersection, it has long been a pinch point for residents traveling into Milwaukie neighborhoods from Highway 224. It is a failing intersection. And on occasions when a train stops on the tracks, everything comes to a standstill, and first responders cannot reach the other half of the City. This intersection is a primary access point for both Providence Milwaukie Hospital and the expanded Hillside Campus. The City does not have the capacity, either in staffing or in capital dollars, to address the kind of fixes that are needed for Harrison Street, and the prospect of ongoing additional transportation funding might make that possible. Without an increase in state support, intersections like 32nd and Harrison will continue to worsen and become less safe.

4. **Reduces our ability to meet housing goals:** While Milwaukie has been proactive in complying with and sometimes going beyond the housing mandates of the last six years, there is a burden on the city from unfunded mandates. The elimination of off-street parking requirements has necessitated re-thinking street design in some cases to facilitate street parking. Unlike newer communities, Milwaukie does not have uniformity in the width of our streets, nor in whether the streets have curbs, sidewalks and stormwater facilities. Thus, some streets can readily accommodate the parking generated by a cottage cluster development, while others cannot. Moreover, it is ideologically inconsistent to ban parking minimums around transit, then force Trimet to cut 10% of MAX services and 25% of bus services by 2030. Indeed, we need more transit options, including micro-transit, to support a denser community, not a reduction in transit services.

Finally, I would just observe that Milwaukie is divided by two state highways, 99E and 224. Highway 224, in particular, cuts Milwaukie down the middle and crossing on foot or by bike is daunting. Bridging these divides to stitch our community back together is a long term project, but it is made all the more difficult when ODOT lacks the staffing or capital funds to be able to come to the table for that conversation.

Lisa M. Batey
Mayor, City of Milwaukie
Email: bateyl@milwaukieoregon.gov
Message line: 503-786-7512

From: Lisa Batey
To: City Council
Subject: Reminder of C4 retreat on July 25-26
Date: Tuesday, July 8, 2025 11:28:06 AM

All: [Scott, please include this email in the packet for tonight's meeting]

I wanted to remind everyone of the C4 retreat coming up on July 25-26 on Mt. Hood. I believe the Council President has signed up, but no one else has at this point. They are still accepting registrations, and if you want a room for the night, County staff (Jaimie Lorenzini) will try to help with securing that, too, even though the deadline for that was June 30. There are parts of it that get tedious, but overall I do think it is the best opportunity to really get a feel for views of folks across the county and to do some relationship-building. I have not stayed up there overnight before, only gone for the Friday afternoon, but this year I do plan to stay up there. The Saturday morning session ends at noon, so it doesn't eat up your whole weekend. Some city staff participate, too!

The agenda this year is to talk about housing issues the first afternoon, and talk about transportation the second morning. I am told by County staff that the previously-circulated agenda is undergoing some changes in light of (1) the decision not to go forward with an SHS ballot measure this year, and (2) the failure of the transportation funding package.

So this is the general agenda still being tweaked

- Day 1 will pivot to include a brief update on SHS, a discussion of the County's point-in-time count of the houseless population, and then delve into middle housing and the new rural housing needs analysis.
    - This includes a panel on middle housing with a representative from Happy Valley, Wilsonville, and a developer doing a workforce housing project in ZigZag, and someone else still to be named.

- Day 2, Session 5 "Barriers to Transit Access" will pivot to focus more on recent initiatives occurring within the transit landscape.
- Day 2, the Transportation Package Debrief may pivot to become more forward-looking, given the outcomes of the legislative session.

This is the registration link.

https://lp.constantcontactpages.com/ev/reg/5x4affj?source_id=4c6e9042-40b0-440e-ac41-d7e3bde9ac67&source_type=em&c=PUSIuqR1-VaTX21nLxF-wrv03_YTaOPCCkkjRIKPF9fAnvAPdX6-IQ==

Lisa M. Batey, Mayor (she/her)
City of Milwaukie
E-mail: bateyl@milwaukieoregon.gov
Message line: 503-786-7512

From:	Lisa Batey
To:	City Council; Ciara Williams
Subject:	follow up to tonight"s discussion -- Redmond URA walking tour
Date:	Tuesday, July 8, 2025 9:50:22 PM
Attachments:	LOC Brochure 2024 DRAFT.pdf

All: [Scott, please add this email to and the attachment to the packet for tonight's meeting]

Please do not reply all. I intend this as a follow up to tonight's discussion as well as food for thought for our next ED discussion.

Attached is a walking tour of the Redmond URA, which I sent around last fall after the LOC conference. It isn't as extensive as I was thinking it was, and their projects are larger than ours, but it still strikes me as a possible model to riff off of in the next year or two to show what we have done in the URA, and feature a few grantees.

In terms of the discussion of promoting businesses, I do understand that DAM's plans include some sort of website that links to all downtown business websites. But I don't know how near that is on their planning horizon.

As an interim measure, the City might consider updating the downtown business map that it produced in 2018 or 2019, when Leila Aman was CD Director. I couldn't find it in my email, but I am sure someone on staff could put their hands on the files (I also think there was a box of the printed maps in the CM office prior to the move to the new City Hall). It was a folded map handed out by businesses and at City Hall, and it was also displayed in that kiosk over in the Adams Street Connector by the MAX station. Maybe the City could fund an update, with an understanding that DAM would take care of future updates.

Lisa M. Batey
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FACADE PROGRAMS

LOCAL PAWS
435 SW Evergreen Ave.

PATRICK'S CORNER
708 SW Deschutes Ave.

KOLBOLD BREWING /
VAULT TAPHOUSE
245 SW 6th St.

GRANT PROGRAMS

Annually, our URA Property Assistance Program issues an average of 20 grants. The total value of these grants is approximately $175K, which in-turn catalyzes over $1M in private investment.

WALKING TOUR 2024

URA
URBAN RENEWAL AGENCY
DOWNTOWN
REDMOND, OR

OUR TEAM

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SCP Hotel - Historic Redmond Hotel Re-Activation

UR Investment: $3.5M

Private Investment: $8.3M

Annual Economic Impact Estimate: $3M

BY THE NUMBERS

$389M
CURRENT TAV OF UR DISTRICT

$73M
STARTING TAV OF DISTRICT

$172M
EST. TAV **WITHOUT** UR DISTRICT

1995 | 2024 | 2024

DOWNTOWN URBAN RENEWAL DISTRICT

The district was established in 1995 with a Total Assessed Value (TAV) of $73M. In 2024, that number is $389M (over 5x growth). If the district had NOT been created, the projected the TAV would have been $172M (only 2x growth).

90%

OCCUPANY RATE

Downtown district restaurant and retail business occupancy rate has been over 90% for the past four years.

HOUSING UNITS

In 2024, district housing, both affordable & workforce, increased by 5% for a total of 157 units.

157

Redmond City Hall in former 1921 RUHS Bldg.

AWARD WINNING HISTORIC RESTORATION

In 2011, the City purchased the abandoned Redmond UNiion High School building for $250,000. The renovation was approximately $12 million, preserving a local landmark while remolding it into a modern, efficient, and technologically innovative public facility capable of serving the community for another 100 plus years. The URA invested $1.5M in the restoration.

RECENT PROJECTS

URA Investment: $2.5M

CENTENNIAL PARK
446 SW 7th St.
Redmond, OR 97756

Development & preservation of recreational public open space. Phase II completed the 2nd block of this unique city centered gathering space.

URA Investment: $30K
Private Investment: $2.9M

HISTORIC BANK BUILDING
404 SW 6th St.
Redmond, OR 97756

Conversion of long vacant bank building into commercial space and housing units.

URA Investment: $343k
Private Investment: $912K

AROME'
432 SW 6th Street
Redmond, OR 97756

Vacant building at the center of the downtown improved with commercial and retail space. Property tax collection on building expected to increase by 40%.

URA Investment: $492K

4TH STREET PARKING/ EV CHARGING

Development of vacant gravel lot into public parking and electric vehicle charging stations. 36 new, free off-street public parking stalls added to supply at the entrance to downtown.

URA Investment: $129K
Private Investment: $571K

BLACKSMITH PUBLIC HOUSE
308 SW Evergreen Ave.
Redmond, OR 97756

Renovation of former welding shop into taphouse, event venue, and food court. Activated property at key downtown gateway.